THE DIFFERENT ASPECTS OF ISLAMIC CULTURE

THE INDIVIDUAL AND SOCIETY IN ISLAM

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PREFACE

At its nineteenth session the General Conference of UNESCO authorized the Director-General to take the necessary measures to prepare and publish a work on the various aspects of Islamic culture. The aim was to show these various aspects both from a historical standpoint and with reference to the present relevance of a civilization whose role and brilliance in the future are expected to equal what they were in the past.

In the Middle Ages, the influence of Islamic civilization was felt throughout the world. For the peoples who, from the China Sea to the Atlantic coast of Africa, embraced Islam, it provided a set of cultural references and values that served to fashion their unity while preserving their own specific characteristics. What is more, this civilization which aspired to universality from its beginnings exercised an undeniable influence on neighbouring peoples in several fields.

In the early Middle Ages, Muslim thinkers and scientists, drawing on the rich heritage of Greece, developed their own world-views and sowed in the subsoil of the Latin Middle Ages the seeds from which the first shoots of the European Renaissance were to grow. They served as an essential link in that transmission of learning and knowledge which constitutes the most moving illustration of the many-stranded continuity of the epic of humanity.

Muslim philosophers, geographers, physicists, mathematicians, botanists and doctors made their contributions to the adventure of science, which paid no heed to borders. Knowledge flowed in from Sicily and Andalusia. Perhaps the apocryphal story of Averroës in Italy, whose teaching at the University of Padua was to find an echo in Dante's *Inferno*, is emblematic of this itinerancy of knowledge, carried like pollen by the bracing winds of human commerce.

Islamic culture, whose roots plunge deep into the past but which is still alive today, simultaneously developed a conception of the individual and the universe, a philosophy of life and an art of living still attested in the prestigious vestiges of its heritage, which form an integral part of the heritage of humanity.

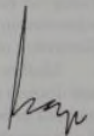
But that culture, momentarily checked in its development by opposing historical trends, has found in its reserves the strength to spring back. Faithfulness to its roots by no means prevents it from wanting to take up position in the present century, participating in the contemporary debate and being open to the stimulating dialogue of cultures.

The series of volumes on the various aspects of Islamic culture, of which this volume is the first to appear, will seek to present to the widest possible readership the various facets of this living culture, namely: the theological bases that constitute the pillars of faith and the foundations on which the entire edifice rests; the status of the individual and society in the Islamic world; an account of the expansion of Islam, since the Revelation: the Arab, Asian, African and European areas opened up before the new profession of faith, and the way in which the rights of the converted peoples were preserved; the fundamental contribution, in the scientific and technical fields, of Islamic civilization to the adventure of human knowledge; the educational and cultural achievements – in literature, art and architecture – of Islamic civilization; and lastly, Islam today, between faithfulness to its past and the necessary conquest of modernity.

Neither a learned compilation nor an attempt at popularization, this series of volumes on the various aspects of Islamic culture is intended to be a work of a high scientific standard with contributions from eminent scholars in the Islamic world, whom I wish to thank.

This co-operation on a large scale among Muslim scholars is intended by UNESCO to be a modest contribution to the cultural renaissance begun by the Muslim countries upon the recovery of their national independence.

In seeking to show the authenticity of Islamic culture, and at the same time its present relevance, UNESCO is undertaking a task that will require a long and sustained effort. It thus intends to remain true to its mission, which is to preserve and promote the values of each culture of the world in order to strengthen intercultural dialogue as a peaceful and necessary means of understanding among peoples and nations.



Federico Mayor
Director-General of UNESCO

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Introduction

Abdelwahab Bouhdiba

The set of six volumes in the series about the various aspects of Islamic culture, of which this is the first to appear, aims to give a reasoned, objective picture of the various aspects of Islamic civilization. This involves summarizing our knowledge, assessing the stage our various Islamic cultures have reached, and showing both their richness, exuberance and variety of expression and also their unity.

Encyclopedic learning, aiming to spread its net as widely as possible, by no means excludes concrete approaches. Our goal is not to produce an apologia. We consider that Islam does not need one, and that it is enough to show it as it is for the secrets of its emergence and the reasons for its expansion, durability and extraordinary vitality to appear at once. Threatened continuously from its birth to the present day, Islam continuously asserts itself. It is not even a matter of a phoenix rising from the ashes. Islam is not in danger and there is no need to defend it.

Nor is it our aim to write a learned work. There are hundreds of books of all kinds, ancient and modern, by genuine great scholars on the inside and equally great and equally profound observers on the outside. These books, in every language, written with differing sensitivities and from a wide variety of approaches, have built up an extraordinarily rich knowledge of Islam. This contribution by Islamic studies fortunately still continues today. It would be absurd to duplicate it or claim to compete with it. Our idea is simply to put forward, on problems of major interest, an approach that is both objective and committed and that above all captures the spirit that in various ways and with varying success has animated Muslim societies.

We know that accumulated misunderstandings often caricature Islam and give a thoroughly inaccurate and unfair picture of it. We know, too, that some of the answers from 'the inside' are at best clumsy and unnecessarily impassioned, not to say plain wrong, and tend (to the delight of our detractors) to exaggerate this caricature still further.

We are equally well aware that societies with their backs to the wall readily set off in search of illusory refuges, and think that they can find true safety in extremisms of all sorts. We are also all too well aware that it is these extremisms that attract the most attention. They can only please all those who, for political, ideological or economic reasons, have a vested interest in prolonging the misunderstandings that have done so much harm.

But we believe that the time for sterile polemics is past. In any case it must be ended. It is as deeply believing modern citizens aware of our own difficulties and as adults responsible for our fate that we set out to raise our problems here. There is no denying that Muslim societies today are nearly all developing societies; technically they are backward; and they are spared neither by poverty, hunger, ignorance or wickedness. Evil, like a cancer, is eating them away and undermining them from within. For some two centuries external threats and innumerable challenges have unceasingly blocked their continuing efforts freely and independently to overcome their intolerable decadence, which is damaging and protracted. So there is a great temptation to impute to Islam this serious backwardness and structural inadequacy, not to mention the crimes committed here and there, sometimes even in its name! The younger generation in Muslim countries can no longer make do with noble declarations of intent and vague question-begging. They urgently need to understand in order to believe, to analyse in order to belong, and to acquire convictions so as to embark on their future clearsightedly and even with joy and happiness.

We wish to be receptive to these urgent questionings and crises of conscience. We wish to do our best to shed light. We wish to give real answers to legitimate questions. So we must evade nothing, for there is really no need to be ashamed of our heritage, or even of our present or of our efforts to find a solution to real questions – the only ones ever worth asking.

There could be no better framework for our enterprise than UNESCO. Islam's universalist spirit and that Organization's vocation to be receptive to mankind link up perfectly. It is to mankind, Muslim and non-Muslim, that we address ourselves to develop the message of Islam. We wish to give our book the widest possible scope. In it a Muslim élite carries out a genuine self-analysis. In so doing it bears penetrating, demanding and lucid testimony to the efforts of past and present Muslim cultures to take their place and assert themselves as the heirs to the message of the Qur'ān.

Hence while scholarship underpins our work, it is not its end. We certainly mean to take advantage of the contributions of modern science. Historiography, archaeology, linguistics, sociology, economics and political science are all pressed into service; and we have made the most of them. We have checked all the facts and used to our advantage all the specialist knowledge that is the pride of our time, yet without overlooking the considerable works of our predecessors and our contemporaries among Muslim scholars. But despite all the concerns of our time, our common ground remains.

tion are all to some extent lasting crises marking our past, burdening the present and confusing the paths of the future. Fourteen centuries during which the Revelation, initially perfect, nevertheless reigned, dynamic but eternally in search of its own translation into action. Fourteen centuries of problems solved, but also of answers challenged as soon as uttered, like phoenixes rising from the ashes.

This means that a priori Islam never lacks resources. Its flexibility and the way it allows for inevitable constraints and the weight of circumstances have enabled it to win through where so many other cultures have perished. It was up to us to identify these resources, take note of them and evaluate them by the yardstick of the present; and also to see how Muslim societies of today seek to put them into practice.

The Qur'ānic Revelation was a real rediscovery of the human person. In that sense it reinstates the evangelical message and restores to human reason the status denied to it both at that time and in the modern world. If Islamic civilization was a window on the universal, this is by virtue of its conception of the very nature of creation. To use one's reason is to apprehend oneself as a universal being. So people must open their eyes – those of the body, those of the heart and those of reason. From anonymous individual to human person, from mechanically unified tribal society to the *umma* as an open community, from traditional society to universal society, a kingdom of rational ends – such is the progress to which the Qur'ān calls us. It defines men as equals. Thus equity (i.e. justice), brotherhood and equality are basic values.

'Thus have We made of you /An *Ummat* justly balanced . . .' (II. 143). This balancing, or mediating, function of the Muslim community constitutes a true transcendental investiture. It informs it with islamicity. It makes it take responsibility for the values of equity, freedom and justice. The just are the authentic ones, and they are the living signs of piety. 'Be just: that is Next to Piety . . .' (V. 8).

This exemplariness leads to an essential dignity, identifies ways of thinking, defines modes of action and delineates a lifestyle. There is continuity between the flowering of values and their translation into action.

This was precisely the most significant contribution of *fiqh*, which for many centuries was and still is the continuing formulation of the law (*shari'a*). The role of *fiqh* has been to derive from the precepts of the Qur'ān clear, precise rules, case by case, as to what everyone's behaviour should be in daily life. Deduction (*istinbāt*) has been raised to the rank of an art having no connection with mechanical casuistry. Starting from absolute principles but taking account of the requirements of the times, how should people act? *Fiqh* lays down a real art of how to behave. It means bringing morals down to earth and principles down from their pedestal, so that the law may truly inform behaviour.

Thus the behaviour of Muslims could be as Islamic as possible and strive towards the ideal. Islam is a twofold tension, upwards and downwards: attuned to the ideal model, and transfiguring ordinary people. The vertical deduction of the law – the object of *fiqh* – is complemented by an upward-looking quest for the ideal action. God possesses the archetypal Book (*umm al-kitāb*) (IV. 7–33; XLIII. 4). He gives it to man by an act of His divine grace. It is for man, from moment to moment as his life unfolds, to write in the mark of that archetype. Existential experience is a dynamic guided by an agonizing anxiety to obtain God's satisfaction by behaving in a Qur'ānic way. Piety in life is not formal adoration, but searching for the divine absolute through all my ways of feeling, thinking and acting.

> It is not righteousness /That ye turn your faces/ Towards East or West; /But it is righteousness –/To believe in God /And the Last Day, /And the Angels, /And the Book, /And the Messengers; /To spend of your substance, /Out of love for Him, /For your kin, /For orphans, /For the needy, /For the wayfarer, /For those who ask, /And for the ransom of slaves; /To be steadfast in Prayer, /And practise regular charity; To fulfil the contracts /Which ye have made; /And to be firm and patient, /In pain (or suffering) /And adversity /And throughout /All periods of panic /Such are the People /Of truth, the God-fearing (II. 177).

The programme of my existence is thus completely mapped out. It is a matter of fulfilling it, and furnishing our lives with actions conforming to the divine precepts: which will be by no means an easy task.

The Qur'ān is thus the matrix on the basis of which legal rulings, collective attitudes and individual behaviour are determined. From the divine being to the human person the road is admittedly long. The object of this volume is precisely to bring out this progress and show how the socialization of man and the individualization of the law are both parallel and complementary.

Fiqh, which gives this volume its rich and splendid subject-matter, has taken on at least five functions in Islamic culture: it has channelled, acculturated, regulated, integrated and reassured.

Fiqh is not merely a reading of the Qur'ān and the *sunna*. It has (in the strongest sense of the word) channelled the Revelation by designating just actions and drawing all the immediate and remote implications from the distinction between *ḥalāl* and *ḥarām*, licit and illicit. The thousands of treatises on *fiqh* also acted as powerful relay stations for the Revelation. The principles are thus brought within reach of all: of all societies, and within them of all consciences in all circumstances. *Fiqh*, both the part concerned with observance (*'ibādāt*) and that concerned with 'intercourse' with others (*mu'āmalāt*), has thus continuously conveyed the Islamic *shart'a*. It has popularized, publicized and socialized it. Thanks to it, ethics and the creed have been translated into institutions and become realities, embodied in attitudes

and behaviour corresponding as closely as possible to the demands of the Qur'ān.

As a result an enormous process of acculturation, perhaps unique of its kind, has been carried out: this volume can give but a slight idea of it. Every society that embraces Islam comes into it with its own structures, organization, customs and culture. *Fiqh* has not been a steamroller, stifling all spontaneity in them. It has not substituted an Arab mode of organization for all others. It has taken account of indigenous traditions so long as they did not infringe the provisions of the law, pruning here, correcting there, repressing where necessary. The profusion of schools, rites and trends bears witness to this desire to islamize societies without reducing them to uniformity. The ideal from the outset was pluralism. God created men in diversity: and diversity is wealth. So that divergence between *faqīhs* (jurisconsuls) appears as 'a mercy from God' (*wa-fī ikhtilāfihim raḥma*). All of that is, as it must be, subject to the distinction between the licit and the illicit. Provided that the precepts of the Qur'ān were observed, people could organize themselves as they wished. The various political, cultural, educational, economic and social institutions were accordingly remodelled if necessary, but always in an organic way: and also so as to allow scope for the creative genius of groups. This was one of the secrets of the extraordinary profusion of Islamic culture, which shared out Islam and accepted in return the happiness of Andalusia, the naturalness of Africa, the Greek genius of Byzantium, the *dolce vita* of India and Polynesia. 'Let there be no compulsion /In religion' (II. 256). This is not a slogan; there is no compulsion in cultural creativity either. Whenever possible, Islam teaches that social control is far preferable to the compulsion it must replace. We would like the reader to consider how essential this approach to acculturation is. It is of course beyond the scope of the present volume: we hope that the others will cover it.

Fiqh has not acted merely as a powerful regulator. Though it very often looks like real casuistry, it is because it has been on the lookout for every situation, in order to produce, if not always a final answer to it, at least a reasoned and justifiable one. The codification of *fiqh* into commonplace general principles, specialized headings and case-studies (*fatāwā*) has given it application to the general as well as to the particular. It is mental gymnastics which in the last analysis is only wisdom, realism and rigour. 'Make things easy, do not make them inaccessible' (*yassirū wa-lā tu'assirū*) sets out no other attitude. *Fiqh* has thus 'dialecticized' the Qur'ān and made its scope historic. By so doing it has been the vector of the law and regulator of the behaviour of Muslims.

Whence the integrative dimension of *fiqh*. Muslim societies could not, in view of what we have just said, be closed societies. By definition they were open and dynamic. And yet the Islamic reference so systematically built up was structured in such a way that every action and every thought, whilst

being free and independent, bore its imprint. If the freeing of the conscience did not develop a characteristic pathology, it was because the individual remained powerfully integrated into society. He belonged to the group. Better, he *was* the group. He was not merely part of the Islamic community: he *was* the Islamic community.

Whence, lastly, the reassuring function of *fiqh*. Socialization was a process of adaptation. Facing a new situation, the individual was not flung into the unknown. Guided by the standard-setting attitudes produced by education and conveyed by so many economic and social institutions, no one was abandoned to his passions alone. To the extent that Islam has been sufficiently internalized, man reacts in full confidence and maturity. The huge standard-setting and cognitive structure of *fiqh* treats believers as adults and takes them all seriously. Better still, it takes seriously everything about them – their reason, needs, desires, dreams and aspirations. Social constraint acts from outside in the form of prohibitions. Social control acts from within in the form of guidelines and references which make it possible every time to analyse the situation and invent the behaviour best calculated to meet it. *Fiqh* conveys an extremely socialized vision of man. Whence the protection of the individual, and the security *(tum'antna)* that produces inner peace and fulfils the 'divine promise': 'O (thou) soul, /In (complete) rest /And satisfaction! /Come back thou /To thy Lord, /Well pleased (thyself) /And well-pleasing /Unto Him! /Enter thou, then, /Among my Devotees! /Yea, enter thou /My Heaven!' (LXXXIX. 27–30).

First *fiqh*, and then the various institutions, acted in such a way as to stimulate and also limit. The aim is to bring individual initiatives, the resources of the community, collective constraints, the interests of all parties, and moral obligations as closely as possible into conformity with the precepts of the Qur'ān. Of course a social mechanism is never absolute or faultless; it could not be total in so far as (perfection not being of this world) it is man's nature only to strive towards it. Moreover Islam's control over Muslims has never been total, and the converse is hardly less true: Muslims' control over Islam has never been total either. So on the one hand there is extreme socialization and on the other extreme determination, both limiting or reinforcing each other as the case may be. Whence so many difficulties and vicissitudes, which with the lapse of time and in the light of the difficulties encountered today stand out in striking relief. If today the 'machine' seems to be racing, it is because the processes of traditional social control have become quite inadequate. We are required to rethink our modes of integration and techniques of islamization. The various Islamic cultures have given education a special place in the socialization of individuals and the individuation of its principles. They have made education the main motive of social control. But what we forget is that education is not purely and simply training. It only succeeds if it first takes care of the independence of the individual.

Education in Islam aims to ensure the independence of the individual, but does not exclude the learning process. It rests on every person's ability immediately to recognize value, rationally to distinguish good from evil, to find his bearings in collective activities, and lastly to engage in plans for existence which he draws up from scratch and in which he sees himself as a responsible being. The summit is reached when Muslim man sees himself as the driving force of his own community and as responsible for his own destiny, and discovers Islam as an indispensable requirement for his own fulfilment.

Thus compulsion no longer has much meaning, and violence plays a minimal role. 'No compulsion in religion' puts independence first and relegates violence to last. Islam has realized that violence, though diminished and even purely symbolic, has no lasting effectiveness. Repression carries within itself its own limits. Penalties are in the end no more than limits: *fiqh* itself speaks of *ḥudūd* (statutory punishment).

Relationships between members of the community are essentially relationships of equality, or better of strict brotherhood. No group, class or person is entitled to draw systematic advantage for itself or individual benefit from the precepts of the Qur'ān. The effectiveness of Islamic law flows from the definition of laws as mutual, universal, imprescriptible obligations. The chapters on economic and political thought will amply demonstrate this.

Better still, this brotherhood goes beyond the strictly Islamic dimension and runs into the human one. Mutual help and the sense of value apply to all my brothers, whether People of the Book or not. The senses of intra-communal and inter-communal solidarity extend and reinforce each other. Muḥammad's community must maintain peaceful and mutually respectful relations with all other communities. Reprehensible activities by one or the other can at worst only give rise to conflicts which can in any event be only temporary and transient.

Such are the broad outlines of the Qur'ānic revolution which gave the Islamic faith its full, complete and absolute meaning. It is this faith that animates *fiqh*, and that enabled it to undertake all the functions we have analysed. True faith, in Islam as elsewhere, is essentially active. Its very nature requires this, since it is prayer and communion with God. A Muslim is not merely a being who has faith, he is faith. A Muslim is a subject, not an object. Much more, beyond the object and beyond the subject the Islamic faith is a project. Hence it must be continually faced with the ever-shifting, ever-new data of history, society and culture. It is through my commitment to the world that my faith is fulfilled and that through it my life finds a meaning. Divine in its essence, nevertheless faith is in trust in the Muslim's conscience and life. It is no doubt by virtue of it that God can reveal Himself as 'nearer to him /Than (his) jugular vein' (L. 16).

A few words about the organization of the present volume. In view of the diversity and importance of the issues addressed, several approaches

would have been possible. At meetings of the editorial committee, we tackled the topics selected by starting with the most theoretical and ending with the most practical, moving in this way from the abstract to the concrete. We endeavoured to single out the underlying principles in order to identify the processes leading to their application. Our first chapter thus treats of basic norms and values. The second takes a look at rights and responsibilities generally. The following (Chapters 3–9) are concerned with the ways and means whereby they are translated into reality and seek to analyse the crucial issue of socialization. The object is to see how the moral and social thinking of Islam has taken shape and how it has found expression through the major institutions of the family and education. Special attention was paid to the specific status of women, children, young people and those outside the mainstream of society. Chapters 10, 11 and 12 discuss specifically Islamic approaches to the economy, political power and the workings of the law. Chapters 13, 14 and 15 are concerned with all the particular situations that have given rise to numerous misunderstandings and misinterpretations, namely: the status of minorities, inter-community relations and human rights. Lastly, Chapter 16 offers us a vivid picture of everyday life in the Islamic city and is, so to speak, the culmination of the whole edifice. The hope at least is that we shall thereby show the reader how, at several levels of social and historical reality, Qur'ānic institutions have been actually implemented, with all that this entails in the way of risks, theoretical and practical difficulties, theological, philosophical and legal inquiry and the development of institutions explicitly responsible for the implementation of basic principles.

Shortly after the completion of this work we learned of the death of Dr 'Abd al-'Azīz Kāmil, who had allowed us to benefit from his immense learning, his great perspicacity and his matchless generosity. In him we have lost a distinguished colleague and a dear friend. Without his masterly contribution, our book would have been incomplete.

We have also been informed that our distinguished colleague Dr Muḥammad 'Abd al-Hādī Abū Rīda has recently died. His fine contribution to the present work will count as a swan song on which he lavished much care. While we have lost a dear friend and a scholar of great vision, we are sure that the whole of his work will long continue to spread its light.

Our sincere thanks go to UNESCO, which in exemplary fashion assumed the task of preparing, putting together and producing this work and also helped to highlight the universality and generosity of Islam. We also wish to thank Mr Abdelrashid Mahmoudi, who with a rare sense of devotion took on the responsibility of revising and editing the manuscript. Through him we wish to convey to the entire UNESCO Secretariat our gratitude for the thousand and one tasks required of its members by this work.

Note to the Reader

All Qur'ānic quotations and verse numbers are given here according to the Arabic text with facing English translation provided by A. Yusuf Ali, *The Holy Qur'an. Text, Translation and Commentary,* Lahore, 1938, many subsequent editions.

Chapter 1

NORMS AND VALUES

Muḥammad 'Abd al-Hādī Abū Rīda

An examination of norms and values in Islam requires some introduction and for this, as for all Islamic studies, we must turn to the Qur'ān,* which is the source for all Muslim faith, thought and culture. It will be appropriate, therefore, to start with a review of the values to be found in the Qur'ān and the *Ḥadīth* (tradition) before passing on to a consideration of the commentaries of Muslim thinkers in this regard. It will also be useful to look very briefly at the ways in which values were conceived by the Arabs in the period before the advent of Islam. This will enable us to distinguish new features from old in the great transformation which Islam engendered in the thought and culture first of the Arabs and then of Muslims who were not Arabs.

NORMS AND VALUES OF THE ARABS BEFORE ISLAM

Morals

We cannot study in their natural setting pre-Islamic Arab morals and the corresponding values of nobility, virtue, courage, restraint, generosity, and care and compassion for orphans, which were incorporated into Islam. Nor can we study directly their conception of 'reputation' (*'irḍ*), which probably matches the present-day notion of 'honour' (*sharaf*) and 'pride of lineage' (*ḥasab*), the latter representing their feeling for the feats and valorous deeds of their forebears. But we can study those morals and values through their poetry.

* The reader's attention is drawn to the note on page 18 regarding translations from the Qur'ān. – Ed.

The most complete expression of morals, however, is to be found in the concepts of *murū'a* (manliness) and *futuwwa* (nobility of character) which subsume many other virtues. In this context, moreover, we must not overlook further concepts referred to in the poetry of pre-Islamic times such as: *al-nafs al-ḥurra* (the free spirit), *al-nafs al-karīma* (the generous spirit) and *al-insān al-karīm* (the generous man), which denotes something extending beyond the generosity associated with hospitality.

In speaking of moral character, the poetry of the pre-Islamic Arabs uses the word *khuluq*, which has a clear and fixed meaning and which is also linked to such terms as *sajiyya*, *shīma* or *khīyam al-nafs* (natural disposition). Clearly, the people of the time had a moral sensibility that is worthy of comparative study together with general principles for the regulation of social relationships. Though the principle of justice, for example, was understood in the sense of repaying good or evil in kind, this did not preclude a broad-minded spirit allowing for clemency, forbearance, forgiveness, graciousness and magnanimity. Other qualities include moral fibre, steadfastness before the blows of fate, maintenance of honour, the protection of neighbours and those in need of shelter.

One characteristic of nobility of character among the Arabs is spontaneous generosity. An Arab feels happy when he gives . . . and should you ask him for something, he beams as if you were giving him what you are asking for. If this was true among the noble Arabs, there were also high social principles and morals to be found among the so-called *ṣa'āliīk* (vagabonds), a rebellious crew that included al-Shanfarā, 'Urwa Ibn al-Ward and Ta'abbaṭa Sharran.

From a reading of pre-Islamic poetry in general, it is possible to reconstruct the codes of morals and virtues that served to constitute the ideal of the perfect tribe and the perfect man or woman. These persisted until replaced in Islam by the corresponding system of religious and moral virtues that are contained in the Qur'ān and the *Ḥadīth*.

Thus, we find the concept of *khayr* (good) subsumed under the terms *ma'rūf* or *'urf*, which broadly indicate beneficence, i.e. that which conforms with reason, nature and the demands of life. Similarly, the concept of *sharr* (evil) is covered by the terms *al-munkar* or *al-nukr*, i.e. that which is reprehensible and forbidden, and so repudiated by reason. These concepts were retained in Islam and are mentioned in the Qur'ān with a new sense: *al-ma'rūf* (good) means what is established by reason, nature and divine law, while *al-munkar* (forbidden) is the opposite.

The pre-Islamic Arabs were not given to speculation. Morals, the constituents of moral consciousness, the various values and a general concept of life – all of these derived directly from experience of life and from the duties dictated by circumstances, as reflected in thought and feeling.

For all their pagan customs, the Arabs were in fact monotheists. Nevertheless, they had no religious thought or life in the Islamic meaning of the

term. Indeed, from the views of some of the leaders of the Quraysh, as reported in the Qur'ān, it can be deduced that there were among them people who believed neither in God, nor the prophets, nor the sacred books.

While they had knowledge of natural phenomena, this had come about as a result of observation and long experience in their struggle for existence, 'not by way of learning facts or training in the sciences' as al-Qāḍī Ṣā'id[1] has pointed out in his book, *Ṭabaqāt al-umam* [Categories of Nations]. Since their views on matters of life were, on the whole, pragmatic and tinged with morality, they may be considered as followers of naturalism or humanism. Though space restricts us to this passing reference, there is considerable scope, in fact, for a comparison of the pre-Islamic Arabs with the Greeks and Romans.

The humanist element in their values and morals was correctly indicated by Goldziher, who gave the first chapter of his *Muhammedanische Studien* the title, 'Murū'a und Dīn', to show the continuity between the periods before and after Islam.

Values

Let us now turn to consider values as they are expressed in pre-Islamic poetry, which is rightly regarded as the *Dīwān al-'Arab* (archive of the Arabs), a record of their daily life, their wisdom and their views.

Al-ḥaqq (right): the term is hardly ever to be found in the sense used in philosophy. Normally, its significance is practical: the right of an individual to property or the like; correct action or behaviour (Ṭarafa Ibn al-'Abd); the right of the clan to its sovereignty (Mu'āwiya Ibn Mālik in *Mufaḍḍaliyyāt*: see *Ḥaqq wa-Ḥaqīq*); the right of neighbours and guests to a generous welcome; the right of those in need of care (Abd Qays Ibn Khufāf; al-Muthaqqib al-'Abdī in *Mufaḍḍaliyyāt;* 'Urwa Ibn al-Ward in his *Dīwān*).

The concept of *ḥaqq* as the proof of right in law and judgements is also to be found in this poetry. Zuhayr, for example, says: 'Right is established in three ways: oath, contest or evidence.'

Al-khayr (good): the meaning may be material good in the things of this life and so will vary according to individual inclinations, experience and age as well as positions and attitudes. For some, *al-khayr* may be encapsulated in drink, the pleasures of love, bravery and chivalry, pride in noble attributes (Ṭarafa); for others, it may be a life of pleasure until the call of duty prevails (Imru'u 'l-Qays); yet others may be dedicated to the life of the knight and warrior with its martial virtues ('Antara), to wisdom and the praise of good character (Zuhayr), or to moral values.

1. Al-Qāḍī Ṣā'id, *Ṭabaqāt al-umam*, n.d., p. 60.

Though the poets and many like them had a strong sense of the evanescent nature of life and the good things thereof, they were not prompted to pessimism or despair. On the contrary, they sought to take what was best from life and concerned themselves with what were, in fact, the higher values and virtues.

When called upon to choose between death with honour, courage and the preservation of the reputation of his tribe, or life as a craven coward, the Arab would opt for the former as the right and honourable course. When faced with the choice of upholding his honour by the spending of his wealth, or saving the money and bearing the stigma of niggardliness, again he would opt for the former (e.g. 'Amr Ibn al-Ahtam or al-Ḥusayn Ibn al-Ḥumām).

Though life and all good things might be ephemeral, the Arab could take comfort and pride in the remembrance of past generations as the extension of an honourable life (Ḥātim al-Ṭā'ī).

Al-jamāl (beauty): the pre-Islamic Arabs, in their simple daily life, had a powerful awareness of beauty which they described meticulously in man and beast. Beauty, however, did not dominate their perception even in love. For them, love was pride (*ibā'*), a sense of dignity (*shu'ūr bi'l-karāma*) and self-esteem (*'izzat al-nafs*). Their highest delight, in fact, was in beauty of an abstract kind: the beauty of good deeds and generosity which they termed *al-jamīl*; the beauty of preserving honour and steadfastness in adversity. The patient endurance of suffering (*taṣabbur*), they would refer to by the derived term *tajammul*, while what was best or most virtuous would be called *al-ajmal*. If someone fell from good fortune on to hard times, he should suffer it with patience for 'the steadfastness of the freeborn is most beautiful' (Ibrahīm Ibn Kunayf). If a conflict arose between one course of action and another, a man should take the more honourable of the two (*al-a'aff al-ajmal*) ('Abd Qays). Perhaps the best expression of this abstract, moral beauty lies in the words of 'Amr Ibn Kulthūm: 'Beauty lies not in outer adornment /For as I gird fast my buckles /I know that beauty lies in noble /Deeds and exploits to which we are heir.'

When the Arab knight spoke of apparel, he meant the weapon with which he defended his honour rather than rich attire.

ISLAM AND PRE-ISLAMIC VALUES AND NORMS

Islam did not seek to fight against the moral attitudes, natural virtues and human values of the ancient Arabs. On the contrary, it preached moderation and directed its attention to the purification of motives and aims and to extending the range of such good qualities as it found in human nature.

For example, the new religion bolstered the spirit of courage, heroism and the sacrifice of self and worldly goods. It did so, however, not in defence of the tribe but in the service of right, justice and the holy war (*jihād*) in

God's name. Similarly, Islam strengthened the spirit of generosity and charity to the highest degree, not, as in the past, to preserve honour and reputation but for the love of God, neither fearing censure nor seeking fame. Islam further emphasized the spirit of unity and solidarity, not now within the confines of the tribe but in the name of fraternity (*ukhuwwa*) among believers. The individual's sense of belonging to his clan or tribe (*qawm*) was transformed into one of the membership of a nation (*umma*) with a higher mission on earth. Pride in good works and pious virtues supplanted the old pride in lineage and tribal honour. The principle of reciprocity within the bounds of justice was affirmed but Islam exhorted people to patience and mercy because that was 'the nearest to righteousness' (II. 237). In the same way, the sense of honour and pride was affirmed but in a righteous cause, not in sin (*ithm*), aggression, arrogance, conceit or any other false pride.

The Qur'ān showed that man's honour and pride stem from the divine spirit that God has breathed into him, and from faith in God to whom all power belongs (X. 65) and who is the 'Lord of Honour' (*rabb al-'izza*) (XXXVII. 180).

As we shall see below, the Qur'ān brought new systems of virtues and natural dispositions for believers, corresponding to those of the *jāhiliyya* (literally, the 'age of ignorance', the term usually used in Arabic to denote the pre-Islamic period in Arab history).

From the foregoing discussion of the morals and virtues of the Arabs before Islam, it will be clear that a sound basis existed for the establishment of a new morality and the emergence of new values.

Irresistibly, there springs to mind the *ḥadīth* according to which the Prophet is reported to have said: 'The people are like metals: the best are to be found both in the *jāhiliyya* and in Islam, among those of understanding' (Ibn Ḥanbal, II, 260, 391). And: 'I have been sent to fulfil the virtues that go with nobility of character' (Ibn Ḥanbal, II, 381).

Good deeds were judged by Islam in accordance with their value and the intention of the doer. It is reported, for example, that Ḥakīm Ibn Ḥuzām asked the Prophet about the giving of alms, the manumission of slaves and the love of kindred. Would such things, from pre-Islamic days, be rewarded in heaven? The Prophet replied: 'The good that you have done comes with you when you become a Muslim' (Ibn Ḥanbal, II, 434); or, according to other versions: 'What was done before will be rewarded.'

The Prophet and certain of his Companions are reported as speaking of the concept of 'wholesomeness of character' (*murū'a*), as in the expression 'the wholesome character of the believer' (*murū'at al-mu'min*). The concept was developed and broadened along with the related idea of the 'covenant of honour' (*futuwwa*), the two terms having many shades of meaning connected with the religious and humanistic aspects of character. We shall mention this when we come to consider *adab al-nafs* (moral and religious virtues) in al-Māwardī

(d. 450/1058), who gives a report of the Prophet as saying: 'Whoever treats with others and does them no wrong, who speaks to them and tells them no lies, who gives his word and keeps it, has attained wholesomeness of character, justice and fraternity.'[2]

VALUES IN THE QUR'AN

Before broaching this subject, it will be in order to devote a few words to the question of values in general. Without going into detail on what is after all an independent discipline, axiology, suffice it to say that the whole matter of values and value judgements on human perceptions and character traits is an extremely complex one. In Islam, man occupies the highest rank in all creation and is the summation of elements drawn from various worlds. God has breathed into him divine breath (XV. 29) and he is singled out by his capacity for acquiring knowledge and by the mission set before him on earth. The whole system of the universe, as we shall see, is in his hands.

It can be said, in brief, that truth (*al-ḥaqq*) relates to man's reason (*fikr*), goodness (*al-khayr*) to his ethical feelings, and his aesthetic sense to the spirit (*nafs*), which perceives and takes pleasure in beauty.

It is my view that ontological values have the highest importance since it is through them that man comes to perceive the reality (*ḥaqīqa*) that lies concealed behind mere appearance.

Our knowledge of things that comes about through conceptual thought might be termed a 'cognitive value', the criterion here being the extent to which our conception of things corresponds to their true nature.

Man possesses abstract, moral values which relate to norms of various kinds: his innermost feelings or conscience; his sense of pleasure or displeasure with regard to certain actions or types of behaviour, i.e. the moral sense; and the sensory pleasure, whether physical or psychological, that arises from the influence or possession of certain things, i.e. utilitarianism and epicureanism.

Then there are aesthetic values which vary according to the point of view of the person concerned. Beauty, for example, might be found in the steps of a chain of deductive reasoning as well as in harmony and proportion in form and composition.

Similarly, there are social values such as status, office, rank in society, leadership and authority, whether dependent on the volition of others or on an illusion said to be of a 'theatrical' kind.

Certain values attach to the individual. They include such qualities as clear thought, a fertile imagination, a noble spirit, a balanced temperament, delicate perception and so on.

2. Al-Māwardī, 1986, p. 317.

Tablets with texts from the Qur'ān

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Finally, there are innumerable material values attached to various types of possessions.

Values are so multifarious that they are difficult to enumerate, yet all of them find reference in Islam, whether in the Qur'ān, the *Hadith* or the *sunna* (tradition).

It is, however, the abstract, moral values in general which are considered the highest, followed by certain material or practical values, if they serve some higher end.

In Islam, everything has a value either *per se* or in relation to other things. Thus, although greater importance may be ascribed to abstract values, this does not mean that others are to be disregarded, for God has assigned to everything its own place (LXV. 3).

Space, however, forces us to restrict our discussion of ideals in the Qur'ān to those that are widely accepted: truth, good and beauty.

TRUTH

The term *al-ḥaqq* (truth) occurs more than 200 times in the Qur'ān and it may well be regarded as the greatest of Islamic values. The scope of the concept is wide and its meanings include the following: truth as a value in terms of existence and of the faith and belief that were brought by the prophets (II. 213; VII. 43); in terms of certain knowledge as opposed to conjecture and fancy (IV. 157; X. 36) in speaking of things, and particularly of God (IV. 171; VII. 105).

The term *al-ḥaqq* is also used in the Qur'ān in reference to matters of justice and judgements between people (XXXVIII. 26; VII. 181). It may take the sense of law or of wisdom in the disposition of things (XVI. 19; XV. 85)

In our discussion here, we will confine ourselves to a consideration of the concept as it refers to the existence of God and knowledge.

GOD IS TRUTH

The Qur'ān says that 'God is Truth' (XLI. 53) or 'The (very) Truth' (XXIV. 25), i.e. that He is the true God and true existence as opposed to everything except Him. What greater manifestation of His power, wisdom and unity in the eyes of man is there than the existence of this marvellous world with all its inhabitants, quite apart from other worlds known only unto Him?

The knowledge that comes from the prophets is diverse and includes: truth, science, wisdom, enlightenment, proof, invocation or evocation (of God), spirit /And 'a healing for the (diseases) /In your hearts' (X. 57).

God is the Creator of the world (II. 117) and His creatures are the manifestation of His power and wisdom. The truth of their existence depends

upon Him for He is the source of all truth, as is noted by al-Kindī, the first philosopher of Islam (d. *c.* 252/866) in his *Kitāb al-Falsafa al-ūlā'* [On First Philosophy].[3] Subsequently, al-Fārābī (d. 339/950) spoke of Him as the 'necessary being'. Corresponding to this notion was also the term *al-Qayyūm* (the Everlasting) which Ibn Sīnā (Avicenna), in *al-Ishārāt wa'l-tanbīhāt*, drew from the Qur'ān.

Speaking of God, the Qur'ān says: 'To Him belong the keys /Of the heavens /And the earth' (XXXIX. 63); 'In Whose hands is /The dominion of all things' (XXXVI. 83); '. . . Who sustains /The heavens and the earth /Lest they cease (to function)' (XXXV. 41). He is 'the One True God', 'the Prime Creator and Holder of all His creation. Nothing escapes His power and grasp except through death and oblivion.'

Everything has its own disposition and nature, together with its distinctive traits, functions and modes of behaviour: '. . . Our Lord is /He Who gave to each /(Created) thing its form /And nature, and further, /Gave (it) guidance' (XX. 50). Nevertheless, the power of God is everywhere and nothing occurs except as He wills it, i.e. events and actions take place with His permission and in accordance with their nature and the laws that He has laid down. The Qur'ān thus says of God: 'Is it not His to create /And to govern?' (VII. 54); 'But to God /Do all questions /Go back (for decision)' (II. 210).

Without going into the question of pantheism, suffice it to say that there is no existence, in the sense of truth, other than the existence of God. Apart from Him, '. . . Everything /(That exists) will perish' (XXVIII. 88). Created things, therefore, have a contingent rather than a necessary existence and their span is fixed and brief. This is what was understood by al-Fārābī in *al-Fuṣūṣ fī'l-ḥikma* to be the Qur'ānic meaning of the term *hālik* (mortal).

Knowledge and wisdom of every kind must be seen in relation to the knowledge and wisdom of God: 'It is your Lord /That knoweth best all beings' (XVII. 55); 'Is not God /The wisest of Judges?' (XCV. 8). Whatsoever happens does so in accordance with His will (e.g. XVIII. 24). This is not to say that God's creatures have no existence or action of their own but rather that they are added to His, for He is their source and their destination. From Him do they come and to Him do they return.

Faith in God arises from the use of reason and the quest for evidence and proof, as well as from love of Him and obedience to His will. These are high values in the field of religion and education. Faith, however, is not the result of mere ratiocination but something that bears a moral value since it derives from the covenant between God and the seed of Adam as illustrated by the verse *al-mīthāq* ('the Covenant') (VII. 172).

According to Islamic philosophers, knowledge of God is the highest and the best of knowledge. Indeed, faith in God is the keystone of Islamic ethics

3. Al-Kindī (a. Yusuf Ya'qūb b. Isḥā), 1950.

for it lends meaning to man's life and purpose on earth. Whoever denies the existence and wisdom of God, despite the irrefutable evidence of the mind, the senses and the heart, undermines the very foundations of morality and virtue and lays himself open to punishment with the corrupt of the earth, as we shall see below.

MAN'S PRIVILEGED EXISTENCE

Study of the verses of the Qur'ān shows that man is filled with the divine afflatus (XXXIII. 72); that God instructed him and made the angels bow down before him (XVII. 7); that God blessed him and favoured him above other creatures; that God charged him with a trust not granted to others, entrusting him to act as His vicegerent on earth and to build on this beautiful planet a civilization founded on truth and justice in the name of the Creator. To this end, he was allowed the use of all the resources of the heavens and the earth (II. 30–34). Given these many privileges, man's existence is manifestly of special value and significance.

Since earliest times, Islamic philosophers have come to recognize the links between things in the system of creation: 'Some were created one in another, some to act and others to be subject, all of them perfectly formed . . .' (al-Kindī).[4] This is what is referred to as the 'prevailing finality' in the order of the world.

However, as, at another level, this universal finality is subject to man, it is he who ranks highest in creation.

Some Islamic philosophers place man at the summit of creation (Ibn Miskawayh); others make him the point of connection between the spiritual and the material worlds (al-Fārābī); others say that he could aspire to the rank of the angels if he curbed his passions (Ibn Sīnā).

It is, however, the Sufis who have best expressed the role of man and we will now consider some of their views. Al-Ghazālī (d. 505/111), speaking about man's true nature, says that it lies in the heart as an expression of divine grace. By virtue of his senses, a way is open for him to the visible world of feeling, while in another direction, the way is open for him to the world of transcendence, i.e. the kingdom of heaven. Standing between the two worlds, he holds the secret of them both: on one side of his heart lies this world of the senses and on the other lies the metaphysical world of our next life.[5]

It is in the knowledge and love of God that the heart finds happiness and its true path; denial of His existence leads to pain and death.

Muḥyī al-Dīn Ibn 'Arabī (d. 638/1240), for his part, returns, in works such as his *Fuṣūṣ al-ḥikam* [The Jewels of Wisdom], to one of the themes of

4. Al-Kindī, *op. cit.*, pp. 214–15.
5. Al-Ghazālī, *Iḥyā'*, III.

ancient philosophy, i.e. that man is a microcosm, corresponding to the macrocosm. It is the present author's view, however, that he means by this a metaphysical rather than a physical world. He says, for example, that within man there are to be found all the glories and beauties of the macrocosm, the widest panorama of divine attributes. His little world subsumes all the facts and levels of existence and, since man has been created by God in His own image, Ibn 'Arabī ascribes to humankind a wide variety of rights that the interested reader may refer to in the *Fuṣūṣ*.

TRUTH AS A VALUE IN SCIENCE AND KNOWLEDGE

Thought, in general, revolves around a study of the world, man and the various aspects of his life, and the source of all things. In all of this, truth, as we have said, is that which corresponds to the true facts of things.

In Islam, truth, in so far as it concerns fundamental doctrine and knowledge, is what comes from God. It is not truth merely by virtue of being divine teaching sent down to man but rather because it contains evidence or guidance that will satisfy reason.

Religious doctrine hardly ever calls upon truth without appropriate proofs, and one truth supports another, whether through reason or the evidence of the senses. Truth inevitably overcomes falsehood because the latter has no sure foundation: 'Nay, We hurl the Truth /Against falsehood, and it knocks /Out its brain, and behold, /Falsehood doth perish' (XXI. 18).

The Qur'ān sets forth the distinction between truth and falsehood in two parables (XIII. 17):

1. The abundant rain that comes down from the heavens flows through watercourses and carries away with it froth and scum. Eventually, the water, which represents truth, sinks into the earth and is a source of fertility, growth and benefit. The froth, which symbolizes falsehood, is merely cast aside.
2. The ores of precious metals are refined to extract their essence, i.e. truth, from the coarse earth. They are melted in the fire and the dross, i.e. falsehood, is rejected.

A parable on a similar theme is found in *sura* XIV. 24–46 where 'the Good Word' symbolizes all truth, good and salvation, whereas 'the Evil Word' represents falsehood, evil and corruption.

Islam is unique among world religions for the extent to which it stresses knowledge and wisdom and for the status which it attaches to scholars. The distinction between those that possess knowledge and those that are ignorant is referred to in *sura* XXXIX. 9; the levels of knowledge and faith in *sura* LVII. 11; and the capacity of men of knowledge to understand the meaning of the Qur'ān in *sura* XXIX. 43. Such men truly fear God (XXXV. 28) and

their testimony concerning the greatest issue, i.e. the existence of the One True God, is connected, in the Qur'ān, with God's own testimony to Himself as the creator of the world which proclaims Him. It is also connected with the testimony of the angels, who are pure intellects that apprehend the nature of things directly (III. 18). The testimony of the scholars, moreover, derives from interpretation of the evidence that God has provided. The veils of perception and physical appearance are stripped away in obedience to God's command to examine the world as a whole and in its parts. There are innumerable citations to this effect in the Qur'ān, including commands to investigate all things (X. 101; VII. 185) and, in particular, all aspects of nature (XXIX. 20).

The mind of the Muslim scholar is dedicated to the pursuit and acquisition of truth. However, as the scholar takes pleasure in revealing truth, so too is his quest accompanied by criticism of opinions in order to eliminate falsehood from them. The motto of the scholar, therefore, has always been expressed in the words used by Ibn al-Haytham (d. 430/1032) to describe himself: 'He sought Truth and loved Justice.'[6]

Also worthy of note are the words of al-Kindī, the first of the philosophers and scholars of Islam: 'We must not shrink from acquiring and proclaiming Truth wherever it may be found, even from peoples remote and nations far away. No task is worthier than this quest. One should never depreciate truth or belittle those who speak it. No one has ever been dishonoured by Truth; on the contrary, everyone is honoured by it.'[7]

The spirit of the true Muslim scholar in his pursuit of truth is aptly described in Ibn al-Haytham's criticism of Ptolemy's doctrine. Unfortunately, there is room here only to quote his opening words: 'Truth is sought for its own sake: this being so, the seeker is concerned with nothing other than its existence.'[8]

Ibn al-Haytham appreciated the merits of his predecessors but, in his criticism of Ptolemy, he wanted to do justice to him while at the same time redressing the balance in favour of truth. In other words, Ibn al-Haytham criticized Ptolemy in the belief that to refrain from doing so would be an 'injustice' both to truth and to later readers of his works.[9]

Another example is Abū al-Rayḥān Muḥammad Ibn Aḥmad al-Birūnī (d. 440/1042) according to whom man feels pleasure in the perception of true knowledge and belief in it, while justice is its own reward.[10] Right at the

6. Ibn Abī Uṣaybi'a, 1965, pp. 550–60.
7. Al-Kindī, *op. cit.*, p. 103.
8. Ibn al-Haytham, 1971, p. 3.
9. *Ibid.*, p. 4.
10. Al-Birūnī, 1958.

beginning of his work, *Fī istī'āb al-wujūh al-mumkina fī ṣan'at al-isṭurlāb* [On Understanding the Possible Ways of Using the Astrolabe],[11] he asserts that pure spirit 'yearns to enfold and give form to things, proceeding always towards greater beauty and splendour and to increase of purity and refinement'.

TRUTH IN THE *ḤADITH*

The words and deeds of the Prophet Muḥammad were the manifestation and application of the principles set forth in the Qur'ān (IV. 80; XVI. 44). This can be seen in the concept of truth (*ḥaqq*) in the *Ḥadīth* where it is viewed as that which came through God to the Prophet, who said: 'The people of my nation (*umma*) know the Truth and thus can disregard those who oppose them.'

Ḥaqq is also used in the legal sense of 'right' to cover the laws that God has imposed on the thought and action of believers. Through the use of reason, they worship and glorify Him, and obey His commands and prohibitions. In so doing, they are following the path of righteousness which scholars would call keeping His commandments and observing His laws, a notion that forms the title of a work by the great Sufi moral philosopher and ascetic, Ḥārith Ibn Asad al-Muḥāsibī (d. 234/856).

The term *ḥaqq* occurs in a number of other different senses: everything that is good; man's wealth and so on; the portion of the wealth of the rich that is due to the poor (*ḥaqq ma'lūm*); the aid and assistance owed by one Muslim to another, and so on.

The believer, for his part, has rights (*ḥuqūq*) in respect of God, e.g. to his promised reward and support (IX. 111; XXX. 47).

According to the *Ḥadīth*, the custom of Islam imposes certain rights with regard to certain people, from which a number of obligations derive, e.g. charity and mutual assistance in all their forms, along with other obligations that may be summed up by the words: 'Treat thy neighbour as thyself.' The reciprocal rights of spouses are governed by general principles of generosity, devotion, propriety and forbearance in the event of discord. These rules may be referred to in the relevant section of this volume. Anyone wishing to examine the question in detail should consult Volume II of al-Ghazālī's *Iḥyā' 'ulūm al-dīn* [The Revival of the Sciences of Religion] for marriage customs (*ādāb al-nikāḥ*) as well as for rights and manners of love, fraternity, companionship and social relations with various kinds of people.

All these and similar rights have a moral character and deal with practical matters of a mutual and reciprocal kind.

There is, however, in the Qur'ān, no mention of the term *ḥaqīqa* (true nature/reality) in its currently accepted sense. Its place would seem to be

11. Al-Bīrūnī.

taken by the term *ḥaqq* (certainty), as for example in: 'Verily, this is /The Very Truth /And Certainty' (LVI. 95), and 'But verily it is Truth /Of assured certainty' (LXIX. 51).

In the *Ḥadīth*, however, the term *ḥaqq* occurs in a sense that is generally almost synonymous with 'thing' or 'entity'. The term *ḥaqīqa* also occurs in the sense of 'reality' as opposed to appearance and form.

Thus, it is reported that the Prophet asked one of his Companions: 'If to everything (*ḥaqq*) there corresponds a reality (*ḥaqīqa*), then what is the reality (*ḥaqīqa*) of your faith?'

In this sense, 'reality' indicates the expression of something in its fullest meaning. Similar formulae in the *Ḥadīth* include: *ḥaqīqat al-īmān* (reality of faith), *ḥaqīqat al-taqwā* (reality of piety) and *ḥaqīqat al-'ilm bi'llāh* (reality of our knowledge of God). All of these expressions suggest that religion and the profession of faith are matters of some depth. Faith, therefore, cannot be merely an intellectual judgement or a verbal affirmation but must permeate the mind, heart and soul. Such, indeed, was the view of Ibn Khaldūn in the chapter on *kalām* (dialectical theology) in his celebrated work, *al-Muqaddima* [Prolegomenon]: 'One manifestation of faith is the trembling in the heart and body that accompanies invocation of the name of God' (see VIII. 2–4; XXII. 35).

GOOD IN THE QUR'ĀN AND THE *ḤADĪTH*

The term *al-khayr* (good) occurs in the Qur'ān on numerous occasions and with different meanings. In the general sense of the term, good refers to all that possesses spiritual and material value, mentioned by God: 'Let there arise out of you /A band of people /Inviting to all that is good' (III. 104).

It is used in the sense of all the things that man wants and needs and which make him happy (XXVIII. 24). More specifically, it may indicate property and wealth (II. 180; XXXVIII. 32) or that which is spent on others for the sake of God (II. 215), or everything permitted by God to the faithful that is of benefit to them in life. Grace and favour are entirely in the hands of God (III. 26; LVII. 29).

In the plural (*al-khyrāt*), the term is used to mean good works (II. 148; III. 114).

'Good' further includes the good intentions that reside in the heart. The perfect man is described as *khayyir* (plural *akhyār*) (XXXVIII. 47–48) while the perfect woman is *khayyira* (plural *khayyirāt*) (LV. 70). *Khayr* also occurs frequently in the sense of that which is 'preferable', as the Qur'ān is for ever urging people to be better and to be concerned to improve their condition both in matters of faith and religion and in the affairs of life. Faced with the wide diversity of mankind, the Qur'ān calls on them to seek and to follow that which is best: 'To each is a goal /To which God turns him; /Then strive together (as in a race) /Towards all that is good' (II. 148). 'And follow the

Best /Of (the courses) revealed /To you from your Lord' (XXXIX. 55). 'So announce the Good News /To My servants, –/Those who listen /To the word /And follow /the best (meaning) in it' (XXXIX. 17, 18).

It was in the ethical sense of *khayr* as good that the concept prevailed in the thought of Islamic scholars and thinkers, and particularly among Sufi moral philosophers.

While philosophers discussed happiness in the context of their study of good, there are only two references (XI. 105–108) in the Qur'ān to blissful happiness (*sa'āda*): that which is promised in the life to come and that which is to be found in this world. The latter corresponds to a life of faith and righteousness (XVI. 97) but its enjoyment is slight compared to that of the hereafter.

The concept of suffering, on the other hand, occurs more frequently in the Qur'ān and this arises from the very nature of life in this world (XX. 117, 123). Man undergoes drudgery and toil (LXXXIC. 6; XC. 4) and must strive to overcome temptation and his own shortcomings in order to live up to the mission assigned to him on earth. His efforts will, in the end, be crowned with victory and reward.

The greatest suffering, however, will be that of the next world and the Qur'ān paints a fearsome picture of the fate that awaits those 'Who will enter /The Great Fire' (LXXXVII. 12).

In the *Ḥadīth*, we encounter the same general meaning of *khayr* as in the Qur'ān, i.e. the material goods that man must leave behind when he departs this life. Additionally, it bears the sense of the good in doing righteousness and that which is best. It includes the most swiftly rewarded of good things: godliness and love of kindred. All of life is good and this is the distinctive virtue of the true Muslim for whom God is never absent (IV. 108).

Other derivations from *khayr* refer to the exercise of choice (*ikhtiyār*), with verbs such as *khayyara*, i.e. to let someone choose, and *takhayyara*, i.e. to choose or select after duly distinguishing and comparing. Godly people, i.e. those that are good, are referred to as *al-khayyir* (plural *al-akhyār*).

When a man leaves this world, the only good things (*khayrāt*) that keep his memory alive are his good works, his charitable contributions to the community and his children who still honour him.

Between the good things of this world and those of the next, there is no comparison. Good, however, is certain to be rewarded. As the Qur'ān says: 'Of the good things that they do /Nothing will be rejected' (III. 115).

Finally, nothing comes of good but good, and all is at the disposal of God who is the ultimate Good.

BEAUTY

In the Qur'ān: the beauty of the universe

The order and equilibrium of the universe (II. 29; LXXIX. 28) are referred to in the Qur'ān, where the world is said to be held in equipoise by the 'Mountains firm and immovable' (XV. 19), while the same balance is to be observed in man and his soul (XV. 29; XCI. 7).

The concept of order (*taswiya*) suggests that things are made perfectly, each in harmony with itself. God has given all his creatures 'Order and proportion' (LXXXVII. 2).

Evidently, therefore, God has given things beauty of form as well as nature (XX. 50). Indeed, among the names attributed to God in the Qur'ān is 'Bestower of Forms' (*al-muṣawwir*) (LIX. 24). He forms His creation as He wishes with unique creativity and perfection (III. 6; LXXXII. 7–8).

In addition to such elements of beauty as order, perfection and proportion, the Qur'ān uses a variety of other terms in various contexts: *al-jamāl, al-ḥusn, al-zīna, al-bahja, al-jamīl, al-bahīj*.

The Qur'ān speaks in many places of the beauty of phenomena, both the infinitely great and the minutely small. It urges the reader to respond with his aesthetic sense and to reflect upon the manifest beauties of nature (VI. 99).

The Qur'ān refers to the firmament and to the way that it is embellished with 'Zodiacal Signs . . . fair-seeming to (all) beholders' (XV. 16; XXXVII. 6; L. 6). The earth is beautiful in colour and form, whether in the majesty of the mountains or in the delicacy and charm of plants and gardens (XXXV; XXVII; XXVIII). Man's cattle, apart from their usefulness, are also beautiful in form (XVI. 5, 8). Man himself is beautiful for his Creator says: 'We have indeed created man /In the best of moulds' (XCV. 4) and in due proportion, In whatever form /He wills (LXXXII. 7–8).

Concerning the beauty of life in this world, the Qur'ān refers to a wealth of sons and to a life of ease for the family (XVIII. 46). It also speaks of: '. . . the splendour /Of the life of this world' (XX. 131). Indeed, its loveliness and beauty may be a temptation away from the enduring good of the next life.

Apart from general references to beauty, the Qur'ān, in many verses, draws together the elements of form and colour which combine to produce perfect beauty (XVI. 13, 69; XXX. 22).

God wished man to enjoy the 'beautiful gifts' (VII. 32) that He has set on earth, as long as he complies with the rules. In particular, believers were to congregate for worship in such a way that their garb and speech were an honour to man's individual and social role: '. . . O children of Adam /Wear your beautiful apparel /At every time and place /Of prayer' (VII. 31).

Nevertheless, beauty is, for the most part, related to the sights and objects of nature. Moreover, the language of the Qur'ān would seem to suggest

to the reader in this regard that while he may be able to enjoy these aesthetic creations and images, he cannot grasp their essential nature, and it advises him indeed to go beyond them, to their Creator. Thus, after describing the various stages in the creation of man, the Qur'ān says: 'So blessed be God /The Best to create' (XXIII. 14).

The ideas of law, wisdom and perfection that emerged from the discussion of the world in the Qur'ān gave a great impetus to the development of cosmology and to a view of the world in which scientific curiosity and aesthetic wonder were mingled.

If the Qur'ān speaks of the beauty of this world, it is no less forthcoming on that of the life to come. The delights of heaven and the beauty and rich apparel of its inhabitants are described in detail. Obviously, however, the language that is used must be symbolic as the terminology is of this world whereas the nature and circumstances of life in the hereafter will be of a new and higher nature. It is, however, part of divine wisdom that God's own reflection is to be seen in the making of our world.

If divine law adjures man not to aspire to reproduce the things that God has created, it does so because the task is beyond human imagination or capacity.

It is sometimes the case that Muslims and non-Muslims alike regard the awesome description of the end of the world as a device to induce fear of the Day of Reckoning. In fact, however, it depicts the change from our world to the next, the end of one life and the beginning of another. In either case, the demonstration of infinite power that attends the cataclysm epitomizes what philosophers of aesthetics, such as Kant, have called the Sublime.

The end of the world is conceived thus: 'One day the Earth will be /Changed to a different Earth /And so will be the Heavens' (XIV. 48). This is an image that helps us to picture the formation of our own world to which God alone was witness. The world is rent asunder and rejoined in a new form, an awesome manifestation of the Sublime springing from God's creative power (XXI. 30).

Moral beauty

The Qur'ān speaks of moral beauty in respect of actions and conduct: righteousness, wisdom and virtue in behaviour are termed 'good' (*ḥasana*), i.e. something beautiful in contrast to its opposite, 'bad' (*sayyi'a*) (VI. 160; XI. 114).

Virtues are described as being beautiful (*jamīl*) in some particular way. For example, patience (*al-ṣabr al-jamīl*) (LXX. 5; XII. 18). Whoever possesses it, according to the *Ḥadīth*, will be calm, reposed and without complaint.

Leaving and turning away from unbelievers may be beautiful (*al-hajr al-jamīl*): '. . . Leave them/With noble (dignity)' (LXXIII. 10). The faithful must be patient and resist the urge to follow their example.

Setting free is beautiful (*al-sarāḥ al-jamīl*) when a woman is divorced but suffers no harm and maintains her rights and honour (XXXIII. 28, 49).

Pardon may be beautiful (*al-ṣafḥ al-jamīl*) and the Qur'ān speaks of 'gracious forgiveness ' (XV. 85), i.e. clemency without pursuit of revenge.

The Qur'ān speaks of 'good' (*al-ḥusn*) in order to refer to good works (XXVII. 11). In another context, dealing with the treatment of parents, *al-ḥusn* has the sense of 'kindness': 'We have enjoined on man/Kindness to parents' (XXIX. 8). This usage indicates that the act itself is intrinsically or essentially good.

A further example is of *ḥusn* used adverbially to describe the distinctive characteristics of speech: 'Speak fair to the people' (II. 83).

The Qur'ān also refers to the deceptive forms of beauty adopted by Satan in form and action to ensnare man (II. 212; III. 14).

The effect of beauty on people can be so powerful that they are unaware of what they are doing (XII. 31).

Finery (*zīna*) and adornment (*zukhruf*) are granted to man for his enjoyment in this life, though, as we have already noted, such pleasures are small compared to those of the hereafter. Moreover, those that are enamoured of fine possessions will find that what they think is theirs to dispose of must be left behind when the divine command comes suddenly to annihilate the world. The earth is then made 'like a harvest clean-mown, as if it had not flourished only the day before' (X. 24).

For a variety of reasons, therefore, Islam has permitted to believers the beauties and good things of life. It has, however, deemed them of little consequence when viewed against those of the next world and man is exhorted to strive for what the next life holds in store (IX. 38), i.e. to aspire to something more elevated and enduring, to higher levels of goodness and to God who is the source of all Good.

Beauty in the Ḥadīth

Many indeed are the *ḥadīths* referring to the Prophet's words and actions with regard to beauty. It is related that his countenance shone with the brightness of the moon, such being the visible power of those endowed with the gift of prophecy. The charismatic attraction of such men is intended by God for, according to the *Ḥadīth*, he never sent a prophet who was not handsome and eloquent.

The Prophet appreciated and was moved by beauty, and he had no fondness for anything ugly. For example, on seeing a handsome man, he stroked his head and beard and cried: 'God who made him fair, keep him

so!"[12] If the names of people or places were unpleasing, he would change them.[13] By way of example, he changed the name of a woman called 'Āṣya (because it suggested refractoriness or sin) and told her that she would be called Jamīla (beautiful).[14]

The Prophet loved beauty of speech and it is reported that when he was asked: 'Where does beauty lie?', he responded: 'On the tongue', i.e. in eloquence of expression. His own speech was controlled, succinct and pithy.

The connection between beauty and good is cited in a tradition according to which the Prophet said: 'Seek that which you need from those who are fair of face.' The sense is that those who have been blessed with beauty will, in turn, be generous and eager to do good. If the needs of the beautiful are fulfilled, according to al-Ghazālī in *Mīzān al-'amal* [Criterion of Action], then what more fitting than that they should supply the needs of those who seek their aid?

Apart from these examples, the *Ḥadīth* also mentions beauty in its ordinary sense in connection with other material and moral values: for example, wealth and beauty, rank and beauty, reputation and beauty, religion, wealth and beauty.

When it comes to the choice of a spouse, the Prophet recommends a man to favour a woman whose excellence lies in religion rather than wealth or beauty. The true value of the individual, in other words, resides in the moral disposition and conduct which proceed from true religious belief.

Mention is also made in the *Ḥadīth* of terms such as *al-iḥsān*, *al-ijmāl* and *al-ikmāl* which relate to the carrying out of various types of moral and material action with a view to perfection (*kamāl*), wherein lies beauty. This might apply, for example, in religion and worship through prayer and reading of the Qur'ān.[15]

Other derived nouns, such as *al-tajammul* and *al-takarrum*, refer to beautifying and ennobling effects that are obtained through the acquisition of fine and precious possessions (e.g. horses) which show the owner to good effect and raise his social esteem.

The *Ḥadīth*, however, also warns against narcissistic vanity and conceit.

If God has granted people good looks, they must show gratitude lest their conduct contradict the appearance with which they have been favoured.

In his appeals to the believers to emulate him, the Prophet told them: 'As God created me perfect in body, so have I sought to perfect my character.'

Believers must strive for perfection and excellence in all their actions. The Prophet is reported to have said: 'God demands proficiency of you in

12. Ibn Ḥanbal, *Musnad*, V, 77.
13. Al-Birūnī, 1936.
14. Ibn Ḥanbal, *op. cit.*, II, 18.
15. *Ibid.*, II, 18, 244; V, 124; VI, 14.

all things: therefore, even if you kill or slaughter, do it well.' The term used here is *al-iḥsān*, which also applies to the highest degree of faith and limpid purity in communicating with God. This level is achieved, according to the *Ḥadīth*, when God is worshipped as though He were before the very eyes of the believer (al-Bukhārī, Muslim, Abū Dāwūd, al-Tirmidhī, Ibn Māja and Ibn Ḥanbal).

God, according to the *Ḥadīth*, is beautiful (*jamīl*) and loves beauty. Divine beauty, of course, is not that which is perceived by the senses but perfection, sublimity and qualities whose nature we cannot know. Man has received indications in God's revelation and symbolic allusions to metaphysical beauty in His works and in our soul. Absolute beauty, however, is beyond the bounds of our limited imagination and the confines of our perception.

The vision of divine beauty in the next life is the greatest happiness of those in heaven and greater beyond measure than all other promised rewards and pleasures.

This vision is vividly described by al-Ghazālī,[16] who distinguishes it from all things perceived in this world: too intense for our senses, too elevated to be framed in our language.

For us in this world, the essential point is that beauty is an element of God's handiwork in His creation. Since it is proclaimed in the Qur'ān and the *Ḥadīth*, faithful Muslims are conscious of the pleasure and wonder that beauty brings. Moreover, as aesthetics has been a recurring theme of religious scholars, any qualms have been removed as to the enjoyment of beauty and any prohibitions on beautification and adornment. The works of Muslims who have treated the questions of love and beauty are filled with edifying examples for moral instruction in aesthetic matters. This is true even of later writers who discussed beauty on the level of ordinary everyday life (for example, Badr al-Dīn Ibn Sālim Ibn Muḥammad in *Nuzhat al-abṣār wa'l-asmā' fī akhbār dhawāt al-qinā'*, Paris manuscript, Nos 3071–3072). Though dealing with questions of the life of the senses, they followed a moral direction and started out from citations of the traditions of the Prophet.

Let us conclude by saying that Islamic culture has always been characterized by its concern for aesthetic quality in the arts and all aspects of civilization. This subject is dealt with in innumerable works on Islamic civilization and we must confine ourselves here to this passing reference.

Some views held by Islamic scholars on beauty

Out of the developments mentioned above, there grew up among Islamic scholars a complete system of aesthetics. Using their independent judgement

16. Al-Ghazālī, *Iḥyā'*, IV.

(*al-ijtihād*), they defined perception and beauty in terms of human faculties and the categories of things which gave pleasure, as well as the effect of beauty on the spirit and the nature of aesthetic enjoyment compared to other pleasures. Other concerns were with the various constituent elements of beauty and speculation on the nature of metaphysical beauty.

This, therefore, is what we find in the works of some of the greatest scholars, such as Ibn Ḥazm al-Andalusī (d. 456/1064) and al-Ghazālī and others who followed in their footsteps. A great deal is also to be found on the subject of beauty in treatises of spiritual and moral education such as Ibn Qutayba's '*Uyūn al-akhbār* and Ibn 'Abd Rabbih's *al-'Aqd al-farīd* [The One and Only Necklace]. Among later works of note is Ibn al-Qayyim's *Rawḍat al-muḥibbīn* [The Lovers' Garden].

Aesthetic matters are also treated in a number of works on medicine. Here, however, we will confine our attention to some brief remarks on the views of Ibn Ḥazm and al-Ghazālī.

In Ibn Ḥazm's *Ṭawq al-ḥamāma* [The Ring of the Dove], there appears to be a theory of aesthetics and aesthetic pleasure according to which 'the soul itself being beautiful, is affected by all beautiful things'.[17] Beauty, in other words, is a characteristic of the human spirit and this is the basis for man's aesthetic sense.

In another work, *al-Akhlāq wa'l-siyar* [Moral Epistle], Ibn Ḥazm itemizes the characteristic features of beauty (*ṣabāḥa*) or its degrees of charm (*ḥalāwa*) as represented, for example, in delicacy of feature and grace of movement, splendour of stature and loveliness of limb. All these various concepts might be compared with such aesthetic terms as 'beautiful', 'pretty' and 'graceful' in English.

The essential fact is that Ibn Ḥazm considers that no word in the language adequately expresses the idea of beauty (*al-ḥusn*). Nevertheless, it is perceived and felt in the spirit by anyone exposed to it as a radiance that wins over every heart.

For Ibn Ḥazm, therefore, aesthetic pleasure is a spiritual experience explicable only through itself.

Al-Ghazālī devotes a brilliant chapter in Volume IV of the *Iḥyā'* to the meaning of beauty in his book on love and related matters and in it he seeks to demonstrate the existence of abstract beauty and the love of beauty for its own sake. As we saw earlier, al-Ghazālī also wrote about beauty and the advantages of the beautiful individual in his book *Mīzān al-'amal*.

In defining the types of beauty that are perceived and enjoyed, al-Ghazālī is concerned with the abstract beauty found in many aspects of morals, conduct, education and the arts. It appears most characteristically in the perfect

17. Ibn Ḥazm, 1953, p. 28.

human personality where intellectual, moral and religious virtues are combined in an inner self that is recognized through insight (*baṣīra*) rather than the superficial external image that is perceived with the senses. As space prevents us from going into detail, we will merely note the following points.

Al-Ghazālī proposes a general definition of beauty in these terms: 'Anything is beautiful to the extent that it attains the perfection appropriate and possible for it. When every possible aspect has attained perfection, it will have reached the limits of beauty. If only some have been attained, beauty will be present to that extent.' Beauty of this sort clearly varies according to the nature of the object, for what is appropriate to one may not be so for another: the beauty of man is not that of the horse, nor a fine hand the same as a fine voice.

Al-Ghazālī's discussion of the elements of beauty in terms of proportion (*tanāsub*) of parts, form and colour may be compared with the investigations of other writers on aesthetics such as Aristotle and St Thomas Aquinas.

In the course of the discussion of the various causes and manifestations of love, it is shown that there is a progression from love of self to love of things that bring benefit and finally to love of the source of all benefits. Al-Ghazālī concludes that a thing may be loved for its own sake rather than for any advantage to be gained from it and that this indeed is the pleasure itself. Such is true love that can be trusted to endure. This is akin to the love of beauty, for all beauty is loved by him who perceives it and this is of its essence. Perception of beauty is the essence of pleasure and pleasure is loved for its own sake.

If beauty should be loved in some other way, on account for example of appetites of various kinds, then, though there is love, it is of other things and not love of beauty.

Al-Ghazālī affirms the independence of the love of beauty for its own sake from love inspired by desire or appetite. He refers to man's love for the beauties of nature where the soul delights in the colours of flowers and birds, in greenery and running water without any hint of desire. Indeed, it is by simple contemplation of these things that man sheds his woes and troubles rather than by seeking advantages beyond and behind what he sees.

When we come to examine the language used by al-Ghazālī – an authority in Islamic matters – to describe aesthetic pleasure, there is a clear similarity of underlying meaning and even of expression between his views and those of Kant, who speaks of *interessloses Wohlgefallen* (disinterested pleasure) which is its own end, i.e. *Zweckmässigkeit ohne Zweck*.

Al-Ghazālī speaks, moreover, of the pleasure of knowing God, seeing the beauty of the Godhead and discovering the divine secrets of the kingdom of heaven. 'Whoever has such knowledge', he says, 'will be thereby in a paradise embracing the skies and the earth.'

The study of beauty has always reminded man of his Creator and filled him with awe of His handiwork. Such feelings are expressed in everyday

phrases such as: *mashā'Allāh* (as God wishes), *subḥān Allāh* (praise God) and *tabārak al-khāliq al-'aẓīm* (blessed be the all-powerful Creator).

The Sufi view of aesthetic experience was different. 'Umar Ibn al-Fāriḍ (d. 632/1235), for example, held that there was a unity underlying the beauty visible in creation and that every manifestation of it was 'borrowed' from the beauty of the Divine Self. The beauty in things is thus of God's creative power. 'Let beauty blossom and not be confined', he wrote, 'to love of finery. For all beauty originates in His. . . . It has been revealed in many ways and they thought it lay elsewhere, but beauty was present.'

The language used is symbolic and it would not be appropriate to think of divine beauty as being seen in created things in a diluted form, nor to follow Plato in saying that the ideal beauty which exists in the world of ideals is, in some way or another, to be found in partly beautiful things in this world. All these suggestions are remote from the 'deanthropomorphizing' (*tanzīh*) of God in Islam. All creatures are made by God but we do not know His nature and it would be unsound for us to meddle in the affairs of the divine with our imagination or to measure divine actions by human criteria.

From the foregoing, anyone who understands the spirit of Islam and the way that it trains the human mind and feelings will conclude that all this demonstrates the powerful influence of Islamic spirituality. Though the good things of life are not forbidden, man is called upon to consider the nature and aspects of beauty and to infer from them the nature of their Creator.

Having touched on some ideas of aesthetic values, we will now proceed to a brief consideration of beauty in music and song, for here is a form of art where aesthetic enjoyment takes complete possession of man's spirit. The subject is dealt with by al-Ghazālī in Volume II of the *Ihyā'*, *kitāb ādāb al-samā'*, where he discusses the songs and melodies of the Sufis in a brilliant analysis of all the implications for religious law, and for the various human, psychological and intellectual aspects. We will quote briefly from the argument:

> Hearts and souls are vaults that contain secrets and the essences of gems. Their treasures are held in as the spark is held between iron and flint. There is no way to release what is concealed in the heart except by striking the flint of hearing. . . . The harmonies of song draw out all the hidden beauties and symmetries . . . Hearing is a sure touchstone for its spirit can reach within only when the heart has already felt that which captivates it.

Al-Ghazālī goes on to say: 'From God is the secret of the power of song and rhythm over the spirit: singing can compel happiness or sadness and bend the movements of hand, foot and head to its time.'

According to al-Ghazālī, the spiritual effect of melody is comparable in value to the aesthetic pleasure that comes from contemplation of the beauties of nature: 'Whosoever is unmoved by spring flowers and the plucking of the lute is flawed in nature and cannot be helped.'

When voice and music are combined, those who are pure in spirit know a yearning towards something whose nature is outside man's comprehension. This is explained by al-Ghazālī as follows: 'In the soul, there is a relationship with the higher world.' What has been promised to man in that world cannot be conceived while he is in this life except through names and attributes and these correspond to his moral nature rather than to the perception of his senses.

In this context, we are reminded of the opening verses of the *Mathnawī* of Jalāl al-Dīn al-Rūmī (d. 628/1273). He describes the sound of the flute (*nāy*) as the longing of the player and the instrument for their faraway homes: the flute for the bamboo thickets from which it was cut and man for the heaven from which he was removed.

After discoursing on the origin of the sounds of instruments and the way that they are based on the larynxes of living things, al-Ghazālī goes on to a discussion of art and aesthetics, in which he says: 'Artists and craftsmen can conceive only those subjects of their work for which God has deigned to provide an example in nature: His is knowledge, theirs imitation.'

From these and the other opinions of al-Ghazālī quoted above, it is possible to compare him with other philosophers, such as Aristotle and Kant, who considered that art imitated nature. Al-Ghazālī believed, however, that nature had been created by God who brings all things to perfection. Finally, and to show that the search for beauty was also carried on by Muslim scientists, we must mention al-Ḥasan Ibn al-Haytham (d. 430/1038), who devoted himself to the search for the nature of truth and was a specialist in optics. In his treatise on the subject, *'Ilm al-manāẓir*, he can be seen not merely as carrying out research in the narrow sense but as analysing beauty with the eye of a natural scientist and mathematician. He discusses the constituents (*al-ma'ānī al-juz'iyya*) that go to make something beautiful: light, colour, scale, symmetry and, especially, proportion and harmony. The appreciation of beauty is a matter of the spirit which is affected by these constituents and so deems an image beautiful.[18]

MORALS IN ISLAM

Terms and concepts

In the Qur'ān, the term *khuluq* means a set of traits and types of conduct: 'this is no other than /A customary device /Of the Ancients' (XXVI. 137). It is also used to indicate a set of good religious and moral qualities as when God,

18. Ibn al-Haytham, 1983, pp. 303–17.

speaking of Muḥammad, says: 'And thou (standest) /On an exalted standard /of character' (LXVIII. 4).

From the same root, the term *khalāq* is also used in the Qur'ān to refer to the positive qualities gained by an individual from his moral conduct. The term *da'ab* also occurs to indicate custom and fixed ways of behaving: '(Their plight will be) /No better than that /Of the people of Pharaoh' (III. 11).

In God's words to Moses, there is an allusion to the upbringing and formation of the individual '. . . in order that /Thou mayest be reared /Under Mine eye' (XX. 39); and 'I have prepared thee /For Myself (for service)' (XX. 41).

The verb *addaba* (to educate) does not occur in the Qur'ān in the cultural and moral senses in which it is customarily used. The verb *'allama* (to teach), which is of frequent occurrence, seems, however, to cover much of what would be conveyed by the other term.

In the *Ḥadīth*, *adab* occurs in the sense of instruction (*tarbya*) in the virtues, especially according to Islam. The Prophet, for example, says: 'A father can give his child nothing better than good moral education' (al-Tirmidhī, *birr*, 33; Ibn Ḥanbal, II, 412; IV, 77, 78); 'Honour your children and let them be of good manners' (Ibn Māja, *adab*, 3); 'God's education is the Qur'ān' (al-Dārimī, *faḍā'il al-Qur'ān*, 1).

Frequent reference is also made in the *Ḥadīth* to *khuluq* and to the need for instruction in good character traits. The Prophet is reported as saying: 'The Lord educated me and He did that well.'[19] When asked by Abū Bakr about his incomparable eloquence, he is said to have replied: 'The Lord educated me and I grew up among the Banī Sa'd.'

It is true to say that Islamic Revelation as a whole constituted an education which found its expression in the person of the Prophet Muḥammad, as an educator of mankind.

Among the collections of *ḥadīths*, books are to be found with the title *Kitāb al-Adab* [Book of Manners] and they contain the elements of religious and social traits and virtues.

From the very beginnings of moral, intellectual and political culture, the term *adab* has been widely used in the titles of books on the subject: for example, the two works by Ibn al-Muqaffa', *al-Adab al-ṣaghīr* [The Shorter Educational Treatise] and *al-Adab al-kabīr* [The Longer Educational Treatise]. Similar use has been made of the terms *al-ta'dīb* (education) and *al-mu'addib* (the educator) with regard to the inculcation of culture. Thus, *Adāb al-nufūs* [Manners of Souls], the title of a work by al-Ḥārith al-Muḥāsibī (d. 243/857) may be understood according to the sense appropriate to Sufi moralists.

19. Al-Suyūṭī, 1931, I, p. 29.

Another occurrence comes in the celebrated work of al-Māwardī, *Ādab al-dunya wa'l-dīn* [Secular and Religious Manners]. The term here signifies laudable manners, as we shall see below in our discussion of al-Māwardī.

By extension, the term *al-adab* is applied in a number of fields to signify a set of necessary attributes for particular functions: *adab al-mu'allim wa'l-muta'allim, adab al-kātib, adab al-qāḍī, adab al-jadal wa'l-munāẓara,* i.e. the sum of knowledge and experience required for teachers and students, for writers, for judges, for advocates in debate and disputation.

To every set of circumstances and relations in life, there corresponded an appropriate set of manners: marriage, the family, invitations and visits, friendship and companionship, earning a livelihood, everything for example that al-Ghazālī discussed in Volume II of his *Iḥya'*.

Man as a moral entity in Islam

The declaration of moral imperatives and compliance with them presumes the existence of a number of necessary conditions, namely: the existence of a person who is truly empowered to issue a command; certain attributes in the one receiving the command, including: an intellect capable of distinguishing between good and evil, between perfection and deficiency; an effective capacity to do or not to do; various possibilities of action; various desires; and a capacity for choice, for the weighing of one course of action against another, following deliberation and decision.

These traits and capacities must be brought together, for obedience to the dictates of virtue requires conscious resistance to the lures of vice and lust. Similar views have been held by some of the greatest ethical philosophers, e.g. Kant.

This view with regard to man is affirmed by the principles and teaching of Islam, since he alone among all known or conceivable creatures combines all the features referred to above. There is, therefore, no place for moral imperatives in respect of spiritual entities like angels for, though they have reason and ability, they are not faced with the choice that arises from a diversity of inclinations and desires. Equally, there is no place for moral imperatives with regard to animals since they, on the one hand, do not have the human capacities of reason and choice while, on the other, they are bound by the laws of instinct.

Strictly speaking, therefore, man is the only moral being and, for that reason, his mission on earth is both moral and rational. This is a further manifestation of divine wisdom which rejoices that all things in the world are created rightly in accordance with God's law and their own purpose, as the Qur'ān affirms in many places.

Man, according to the Qur'ān, was created 'In the best of moulds' (XCV. 4). The truth of this statement is revealed in the perfect integration of

man's bodily organs and functions that sustain his life. Similarly, it is evident in the interplay of moral traits, determining action and direction so that the necessary balance is maintained.

Thus, for example, in the field of knowledge it can be seen that the senses and imagination lead to delusions and shortcomings which are checked and corrected by reason.

In matters of conduct and behaviour, the temptations of the flesh are counteracted by the power of mind and will. Alongside the selfishness and egoism that are necessary adjuncts to survival, there are the countervailing qualities of mercy, compassion, love, self-sacrifice, altruism and so on.

In human nature, in man's mental and spiritual awareness, in everything that he feels and testifies to in his everyday life, there is a clear distinction between good and evil, between beneficial and harmful. Man knows, moreover, that it is possible to choose one and not the other. Thus every individual is faced with the onerous responsibility of overcoming the temptation to evil and sin, a situation which is expounded in the relevant verses of the Qur'ān. For example: 'Have We not /(. . .) shown him /The two highways?' (XC. 10); 'By the Soul /And the proportion and order /Given to it /And its enlightenment; /As to its wrong /And its right; – /Truly he succeeds /That purifies it /And he fails /That corrupts it' (XCI. 7–10).

Yet, after the toil (*kadḥ*) and suffering (*mukābada*) of his mission in this life, man emerges victorious in the next world, happy in the presence of his Creator. This is man's 'greatest triumph'.

In verses that are too numerous to cite, the Qur'ān stresses that man can act effectively and that he has the will to do so. To the same degree, it emphasizes that man is responsible for his every action and his every thought (LXXIV. 38; II. 284).

This responsibility, furthermore, is an individual one, for everyone will be called to account for his actions to the last mote of good or evil: 'One Day every soul /Will come up struggling /For itself' (XVI. 111).

The Prophet Muḥammad was the instrument of divine teaching, the bearer of the principles of faith, knowledge and means of instruction, the proclaimer of divine commands and prohibitions. He is termed variously the Messenger, the Admonisher, the Witness, the Caller to God, but nowhere is he designated the overlord of men. However grieved he might be by their opposition or saddened by their unbelief he would not attempt to force them, for that would be contrary to the principle of freedom and choice. His task, rather, was to transmit what had been revealed to him and to make known the stern punishment that would be meted out for actions in this world and in the next.

In a number of verses, the Qur'ān affirms that the power and will of God extend to all creatures and to their actions and effects. In this, there is no conflict with regard to the independent action and will of man or even of

nature. God's omnipotence is merely a logical extension of the existence of the True Creator who tends that which He has created. In the words of the Qur'ān, God '. . . gave to each /(Created) thing its form /And nature, and further, /Gave (it) guidance' (XX. 50).

From the working of his mind, rational man realizes that things and their properties and capacities are maintained in existence only through the continuous support of God's creative power (II. 117; XXXV. 41). He is quite right, therefore, to attribute to things every action and effect emanating from them in the light of his knowledge of their nature and powers. On the other hand, he is equally right to attribute all such things to the Creator who is the source of their existence (III. 109): 'To Him belong the keys /Of the heavens /And the earth' (XXXIX. 63). In His hand is 'The dominion of all things' (XXXVI. 83).

It behoves us to consider carefully what the Qur'ān tells us, for at certain times, actions and events are attributed to things, while at others they are ascribed to God, the source of their existence. This is indeed the true state of affairs and there is no contradiction between the two positions.

The first point of view may be regarded as a scientific theory relating to the limits of our perception; the second is a philosophical standpoint of far-reaching ramifications. The problem is correctly posed in the Qur'ān, which assigns to the Creator those things that are His but does not exclude the real power of action that the Creator has vested in His creatures. Such power, nevertheless, does not in itself exist independently but through God's support and this view is one aspect of the way that monotheism is seen in Islam.

It is in accordance with this universal prospect that we must understand those verses of the Qur'ān (XVIII. 23) which state that man's will is not operative except by the will of God or that nothing takes place in the world without His permission (*idhn*). The essential point is that all created things and their actions depend on the Creator and this is a fact that should never be absent from our minds.

It is vital to gain a correct understanding of the meaning of this latter term: things, as we have said, possess their own nature and volition but they do so within the divine power that maintains the coherence of the universe (XXXV. 41).

It will be clear, therefore, that man, if he so chooses, can live an elevated existence in harmony with the world. He can also, again if he so chooses, fall from the rank assigned to him to what the Qur'ān calls the 'lowest of the low'.

In the Qur'ān, man is not the sinful creature of the Fall, cast out from the Garden of Eden on to the earth in punishment for his disobedience. Rather, he has a special nature, for although his appearance places him within the world of animals – within its limits an excellent world – there is nevertheless in man the spirit which God has breathed into him (XV. 29). For man,

therefore, is in possession of a rank which fits him for his unique mission as God's vicegerent on this fair planet. This is the greatest 'trust' (*amāna*), which could not be borne by other creatures but only by man (II. 30; XXXIII. 72).

Among the books of divine revelation, the Qur'ān is unique in its proclamation of man's mission on earth where everything is subject to him (XLV. 13).

A study of man's origin and his life and experience in the Garden of Eden shows that this was a period of introduction and preparation for his mission on earth.

Both from the Bible and the Qur'ān, it is evident that man, from his earliest beginnings, had capacity and will, and thought about the things that are commanded or forbidden. However, from lack of experience, he might slip or, from ambition, might act without understanding the possible consequences.

In the Qur'ān in particular, a study of many verses dealing with the subject (II. 30–38; VII. 11–25) reveals that man's arrival on earth was not an accident but part of a divine plan. The prohibition against eating of the tree was not a commandment linked with punishment but a question of choice of direction: whether to remain in ease in the Garden of Eden or to take up the mission and to live a life of toil and struggle outside (LXXXIV. 6; XC. 4).

In order that the choice be made, God revealed the nature of the task to the angels but kept it from Adam who had to discover his mission for himself. The warning that God gave to Adam and Eve was against the snares of the Devil, man's avowed enemy whose constant challenges must be overcome in the life of this world.

Adam and Eve, however, were innocent and inexperienced and thus easily led astray. Satan swore to them that he was a sincere and honest adviser (V. 11–25) and that eating of the fruit of the tree would bring immortality and eternal dominion. In his ambition, Adam forgot the warning and they ate of the tree and, seeing the result, repented. God accepted Adam's words of repentance and sent him down to earth, divine wisdom manifesting itself in the appearance of a new order in which man, as God's vicegerent, has a mission to populate and civilize the world according to his Creator's guidance. The civilization that the Qur'ān refers to covers every aspect of man's varied works, his arts and sciences, his struggle for truth, good and justice and his resistance to falsehood, evil and injustice. To achieve these divine aims is impossible without serious and noble effort.

Whoever studies and compares the evidence will see that everything which happened in man's life in paradise has its counterpart afterwards on earth. All is here: the commands and prohibitions, forgetfulness and sin, repentance and forgiveness, and the ever-present Satan who challenges God in his seduction of mankind. The one difference is that, whereas man in the Garden of Eden was in a stage of preparation to gain experience and knowledge,

on earth he is at a stage of command and application, taking up the great mission planned for him.

In putting forward these points, it is not our intention to set forth a religious study of man but rather to affirm the existence of a foundation for morals which can be achieved by human effort. Man in Islam does not bear the stigma of original sin and can follow the path of good using his God-given reason and will. This position, furthermore, does not conflict with the concept of divine favour (*fadl*) or the success (*tawfiq*) which the Lord may grant to whomsoever He chooses, as the Qur'ān tells us.

These are the bases underlying Islamic rules, religious education and the views propounded with regard to them by theologians, mystics and philosophers.

Man's mission on earth, as the Qur'ān shows, has an intellectual character since he is obliged to observe and reflect on what he sees in this world in order to attain to knowledge of his Creator and faith in Him. It also has a practical, moral side: to act in accordance with the *shari'a* law and its precepts, to purify the soul through virtue, to judge fairly and truly, and to act with righteousness and mercy. Countless examples to illustrate this are to be found in the Qur'ān and the *Hadith*.

The passages devoted to man in the Qur'ān must make any rational individual proud of his mission on earth, optimistic and self-assured. The Muslim knows that in embarking on this life to tame and civilize the earth, he is assured, after his struggles, of a return to his Creator and will pass gracefully from this world to the next.

CHOICES OPEN TO MAN

Man, as we have seen, has perfect freedom of choice but, first, he must be apprised of the truths of faith, which is 'The most trustworthy /Hand-hold, that never breaks' (II. 256), and he must see the distinction between faith and false beliefs. Since the difference between the two in substance and result is clear, doctrine says: 'Let there be no compulsion /In religion: Truth stands out /Clear from Error' (II. 256). Rational, responsible people, therefore, should follow what is 'good' for them and this is why the Qur'ān is for ever calling on Muslims and the adherents of other religions to believe and to act accordingly.

Having endowed men with reason and free will, God in His wisdom decided that they themselves should bear the responsibility of choosing belief or non-belief, a choice for which they would be held to account (LVI. 10, 35; XXXIII. 28–29).

Man as a rational being possessed of complete freedom of choice (XLI. 40) faces alternatives that have serious implications and it is his responsibility to choose the life he wishes for himself (XXXIII. 28–29).

On the one hand, he may choose faith in the light of the proofs and evidence available, regulating his life and thought in accordance with the precepts of reason and divine law. Here, he will have opted for a life of righteousness (*taqwā*), following the path of integrity and salvation to '. . . A life /That is good and pure' (XVI. 97). After the happiness of this life, he will have gained the grace of God and that eternal bliss in the next world which is his 'greatest triumph'.

On the other hand, without rational proofs and despite the evidence of the fate that awaits him, he may choose unbelief in order to follow that way of the flesh and 'The conveniences of this life /And the glitter thereof' (XXVIII. 60). Though these 'poor pleasures' shall be paid in full (XI. 15), he immerses himself in them and delivers himself up to false hopes (XV. 3). Such men 'wrong their own souls' (VII. 177) or 'Will find their souls /In perdition' (VII. 9). Such a course is followed by 'eternal misery' and the result 'Is loss for all to see' (XXII. 11).

Moreover, since man must inevitably weigh and balance his choices, we may say with al-Ghazālī that 'he is compelled to choose'.[20]

Islam recommends a balance in all things. The Prophet, for example, is reported to have said: 'Your good lies not in leaving the things of this world for those of the next, or those of the next for this, but in taking each for each.' The world in itself is good and a preparation that smoothes the way to the next: 'The world is a good steed that will bear you safely to the hereafter.' 'But seek, with the (wealth) /Which God has bestowed on thee /The Home of the Hereafter' (XXVIII. 77).

MORALS IN THE QUR'ĀN

The morals that prevail among Muslims, whether the élite or the mass of believers, for whom religion is the guide to their thought and life, are drawn from the Qur'ān, from the words and deeds of the Prophet, and from the sayings of those who excel in knowledge in faith. The basis is the Qur'ān for it was 'taught' by God (LV. 2). While the Qur'ān gave instruction in precept and principle, practical detailed application came from the Prophet.

Morals are drawn from these sources by acceptance and emulation based on rational conviction as well as piety of thought and feeling. There is no need for recourse to theory because morals are, in fact, action and knowledge of them is practical knowledge.

It must not be forgotten, moreover, that for many centuries of Islamic history, the Qur'ān and the *Ḥadīth* formed the basis of the Muslim's education. Even philosophers such as Ibn Sīnā were among the many who learned

20. Al-Ghazālī, *Iḥyā'*, IV.

the Qur'ān by heart at an early age so that its content and morals were implanted in their minds and manifested in their conduct.

As long as some modicum of basic Islamic education is provided during childhood, the influences of other moral philosophies and the teaching of other societies and individuals will not supplant the spirit of Islamic conduct and manners which will remain and be expressed in everyday behaviour. Acceptable to reason and nature alike, it conflicts neither with the theory nor the practice of the 'etiquette' that Muslims may be taught nowadays to promote good social relations or to regulate conduct so long as this does not offend sound moral sensibility. The only difference is that religious conduct remains necessarily connected with the faith which is the guarantee of its reward. It remains only to be said that good is in itself good and that the reward for actions is in proportion to knowledge and intention. And from God there are no secrets.

Apart from exhortations to attain knowledge and education, the Qur'ān also gives moral counsel of various kinds to help man towards salvation, i.e. integrity in a rightly guided life on earth and a happy outcome in the hereafter.

Below, we shall see some characteristics of Islamic virtue and the connection between faith and practical action, for as the *ḥadīth* says: 'He has no faith who has no loyalty; he has no religion who has no experience' (reported by Ibn Ḥanbal, III, 135, 154, 251).

THE MORALS OF BELIEVERS AND THE VIRTUES OF THE FAITHFUL: MANNERS AND BEHAVIOUR

Morals are founded on knowledge and endeavour and can only be attained through them. The whole of man's life, whether in his heart or in the public eye, might be said to turn on morals and conduct, and nowhere is this more apparent than in Islam, which covers every aspect of the life of the believer and his dealings with other parties: with God and then his fellow men; with his parents and first of all his mother (see XVII. 23).

The Qur'ān mentions various sets of virtues, some more numerous than others. In Islam, they are the equivalent of the Judaeo-Christian morals and commandments but are immeasurably more detailed and comprehensive. Let us cite some examples:

- the characteristics of believers (XXIII. 1–11);
- the virtues of the faithful (III. 123–136);
- the conduct of the 'servants of God' (XXV. 63–67), so called because they worship and glorify God;
- the morals of those devoted to prayer (LXX. 23–35);
- the importance of prayer to conduct (XXIX. 45);

- the dispositions of those who respond to their Lord and who 'are endued with understanding' (XIII. 18–24; XLII. 36);
- the attributes of piety and godliness for men and women (IX. 112; LXVI. 5);
- the virtues in Luqman's commandments to his son (XXXI. 13–19);
- the attributes subsumed under 'righteousness', i.e. doing good in the widest sense (II. 177).

Let us also stress here that the references are to religious and spiritual values and to the corresponding moral values.

It is hardly necessary for us to list the virtues of faith and godliness, such as abiding by the tenets of Islam, performing religious duties and observing the provisions and spirit of the *shari'a*. Nor need we dwell on the deep religious feelings referred to in the Qur'ān, such as the dread which seizes the heart when the name of God is uttered or the fear and trembling inspired by His divine majesty (VIII. 2; XXII. 34–35). These and the trembling of the believer on hearing the word of God (XXXIX. 23), together with other such religious feelings (XVII. 107–109), can be set on one side, for the spiritual value concerned is a personal and psychological one which is not given external expression. Our focus will be on the true virtues of the believer, which have both a personal dimension and a collective dimension – reflected in social relations as portrayed in the Qur'ān and the *Ḥadīth*.

Constraints of space mean that the virtues cannot be enumerated here and the interested reader is referred to the verses of the Qur'ān cited. We shall have to be content to mention some of them briefly:

- chastity in thought and action;
- lowering the eyes in modesty;
- going in peace and modesty without false pride (the Qur'ān speaks of the arrogant man, swaggering and strutting to his doom; for all his power he cannot rend the earth asunder nor reach the mountains in height (XVII. 37);
- steadfastness in adversity, in resistance to temptations and in abstaining from sin;
- meditation on the verses of the Qur'ān;
- gratitude;
- moderation in spending, staying within one's income and being content with one's earnings;
- suppression of anger;
- forgiveness.

Social virtues include the following:

- financial help for those in need, whether relatives or simply those in want (people who give, however, are reminded that they must

'. . . follow not up /Their gifts with reminder /Of their generosity /Or with injury' (II. 262));
- freeing of slaves;
- spending in fat times and in lean;
- honouring every promise and trust;
- speaking the truth and bearing no false witness;
- forgiving offence.

Personal virtues that are heavily stressed in the Qur'ān and the *Ḥadīth* also include the following:

- respect for parents even if they do not care for ties of kinship (XVII. 23; XXXI. 14–15);
- protection of orphans (II. 83; VI. 152);
- kindness to neighbours (IV. 36) (so insistent was Jibrīl on this point that the Prophet, according to one *ḥadīth*, feared that the neighbour would have a share in his estate).

The Qur'ān warns against certain vanities: believers should avoid and not repeat foolish talk that is delivered without thought or reflection; the prattling of fools should be ignored and not returned in kind.

The Qur'ān emphasizes certain universal virtues and the connections between them: justice and charity; good works and charity; keeping one's word and discharging trusts; patience and forgiveness; truth and patience; patience and gratitude; steadfastness in adversity; and gratitude for blessings. According to one *ḥadīth*, faith, in its moral sense, is divided into two parts: steadfastness and gratitude.

Given the vagaries and vicissitudes of life, the Qur'ān seeks to raise the believer above the glitter of the world (XXVIII. 82–83) for he must be tempered with steadfastness and bonded to faith (II. 155) so that neither grief nor joy may overcome him (LVII. 23). Indeed, God in His wisdom has, at times, heaped suffering upon suffering so that the believer might learn steadfastness and that the test might reveal those whose faith is strong (III. 140–142; XLVII. 31). Surely, the historian of the spread of Islam was correct to attribute those first victories to the moral force which God had inculcated in the early Muslims and which He nourishes today in those charged with the guidance of faith and morals.

MANNERS IN PUBLIC AND IN PRIVATE

The Qur'ān sought to instruct believers in manners of various kinds and of these we will cite a few examples, some relating to the Prophet, some to visits and entering houses, others to appearance in public places.

For believers, the Prophet was a teacher, guide, father, shepherd and leader to be obeyed and honoured. The Qur'ān demands obedience to whatever he commanded or prohibited (LVIX. 7) and believers should not act without reference to God or the Prophet. In speaking to him, they should not raise their voices or shout as they did with one another. It was not seemly that they should hail him from outside his house but should wait until he came out to them (XLIX. 1–5). They might not enter his house to eat except by his leave and then, having finished, they should 'disperse, /Without seeking familiar talk' (XXXIII. 53).

Just as the Prophet was a 'father' to the believers, so too were his wives, in the words of the Qur'ān, 'mothers of the believers' and, therefore, to marry his widows after him would be an enormity (XXXIII. 6, 32).

A house that was occupied might not be entered without permission and greeting: if no one was at home, entry was forbidden. An unoccupied house, however, might be entered to recover belongings or for some other valid cause (XXIV. 27–29).

With regard to visits, the Qur'ān stipulates times when people are at home in a state of privacy so that anyone arriving must do so by invitation. The occasions concerned are: the time for changing into day-clothing after dawn prayer; the time of disrobing for afternoon rest; and the time for changing into night-clothes after evening prayer (XXIV. 58).

As for female dress, women should be modestly attired when they appear in public. They should avoid being unnecessarily uncovered and should not uncover themselves to anyone outside the permitted degrees of relationship (XXXIII. 59; XXIV. 31).

The Qur'ān does not forbid 'The beautiful (gifts) of God /Which He hath produced /For His servants' (VII. 32). Beauty, however, should be in its place and the Qur'ān enjoined believers, male and female, to lower their gaze to maintain the purity of the human heart and to protect it from occasions of sin (XXIV. 30–31; XXXIII. 53).

The contemplation of beauty enhances our appreciation of the wonders of God and His creation. Hence aesthetic education that takes account of morality is far from absent in Muslim faith and spirituality.

MORALS IN THE *ḤADĪTH*

The Qur'ān, which has been sent as the guide for all mankind, was intended by God to serve the education of the Prophet and to lead him to the performance of his mission through what was thought and revealed to him on various occasions and by different events. Sometimes it is the Prophet who is addressed; at other times, people in general or various groups of them, male and female. It was, however, principally the Prophet to whom the sacred word came and he was the first to be moulded and to act in accordance with

the Revelation. Thus, when Muḥammad's wife, 'Ā'isha, was asked about his character, she replied: 'His nature was that of the Qur'ān.' With such teaching, the Prophet became the perfect moral exemplar for every Muslim: 'There was indeed in (him) /An excellent example for you /To follow' (LX. 6). God commanded him to say: '. . . I am the first /Of those who bow /To His Will' (VI. 163).

Among the invocations of the Prophet that call for emulation are the following: 'O God, as you have created me perfect in body, give me a perfect character' and 'O God, preserve me from all wrongdoing.'

Al-Ghazālī sums up all this by saying that 'the Prophet was the first target of Qur'ānic education, and it was through him that the divine light spread to all mankind'.[21] Thus the Prophet could say: 'I have been sent to fulfil the virtues that go with nobility of character.'

This fulfilment of virtue was not of human inspiration or effort but rather divine instruction affirming and adding to man's already excellent nature.

The Prophet performed his mission with an unsurpassed patience, insight and perseverance. He was a kind-hearted father to the believers (III. 159) and it grieved him if they were afflicted: '. . . to the Believers /Is he most kind and merciful' (IX. 128). Having taught the Prophet, God spoke to him, saying: '. . . And thou (standest) /On an exalted standard /Of character' (LXVIII. 4). Religious scholars came to take this concept of the 'exalted character' (*khuluq 'aẓīm*) as the epitome of education in the Qur'ān.[22]

Moral concepts and religious virtues are cited in the *Ḥadīth* together with their application to all aspects of life. Similarly, there is mention of reprehensible traits of character and warnings against them, whether in the heart or in actions. For these, the reader must turn to the relevant chapters in collections of the *ḥadīths*.

To conclude this discussion of morals in the Qur'ān and the *Ḥadīth*, we should like to consider two terms from the Qur'ān: *rabb al-'ālamīn* (Cherisher and Sustainer of the Worlds) and *rabb kull shay'* (Lord of All Things).

The noun *al-rabb* (Lord) may be derived from the verb *yarubb* (to be master of) or *yurabbī* (to rear), the nominal form being used to signify the agent. The term is also said to derive as an adjective from the former verb, giving the sense of 'possessing', just as an owner or master keeps what he rears or raises (*yurabbī*). Further derivation yields *tarbiya* (raising, rearing, training . . .), i.e. bringing something gradually to a state of perfection.[23]

21. Al-Ghazālī, *Iḥyā'*, II.
22. See al-Tahānawī, 1966, p. 448, for further views on this concept among the Sufis. See also the article on *khuluq*, pp. 446ff.
23. Al-Rāghib al-Iṣfahānī, *Mufradāt gharīb al-Qur'ān*; also commentary by al-Bayḍāwī, 1988, on the first *sura*.

In his commentary on the opening *sura* of the Qur'ān, Fakhr al-Dīn al-Rāzī explains the meaning of *rabb* and *tarbiya* in relation to God and creation by saying that He created them and He raises and cherishes them, not for Himself but for them.

We have already seen in our discussion that man is the one moral creature and that God, who has created all things rightly, has laid down the path for man's perfection according to his mission and destiny. In this context, God, who is the source of all education (*tarbiya*), is at the origin of the moral training which lies at the very heart of religion.

Man, moreover, by virtue of the capacity which God has given him to recognize the values of actions and their effects, has attained to good and beneficial conduct, and, through his reason and feelings, has learned the necessity of avoiding those things which are bad or harmful. Hence, he has learned by himself such fundamental virtues as observing right and justice. In the same way, his heart is moved by a sense of mercy to compassion and co-operation. With perspicacity and discretion, man learns from experience the consequences of any leaning to evil and aggression. Thus, in every society, no matter how primitive, there will emerge those who call for good and beneficial actions and for the avoidance of sin and harm. Indeed, if this were not the case, there would be no basis for an ordered life.

God, however, the Lord of All Things, in His guidance to man through the voice of His prophets, opened the human heart and mind to the new virtues of religion, faith and piety, developing higher moral feelings and bringing to a culmination His concern for the unique creature that would be His vicegerent on earth.

NATURE AND CHARACTERISTICS OF MORALS IN ISLAM

For the Muslim thinker, religion is not mere knowledge of the existence of God or simple compliance with His laws. Nor is it confined to the glorification or love of the Creator. It is all of these things and more, a comprehensive system of doctrine, thought, knowledge, values, daily life and civilization that a thinking man can believe in and abide by. It provides for the affairs of this life and prepares the way for the next, directing and giving meaning to man's life and destiny in a clear and detailed fashion. It does so, moreover, in accordance with precepts and principles which have been laid down not by any individual or group but by the Creator of all mankind. Reason accepts such principles in the light of evidence from Him who created man's mind; conscience responds to them as they are sent by Him who placed conscience in man's breast. Among the definitions of religion handed down in scholarly works is the following: 'Religion is a divine rule directing men of reason by their own free will to success in moral and material

things.'[24] In Islam, once religious belief has been established, everything else is a question of character and conduct with regard to God, man and all living things. Indeed, the *shari'a* law of Islam, with its morality and rules of conduct, covers every aspect of human behaviour. Anyone seeking further detail on this subject should consult the relevant reference works, especially al-Ghazālī's *Iḥya'*.

It comes as no surprise, therefore, that character occupies the most important place in religion and this is demonstrated in numerous sayings of the Prophet: 'The best that a man can be given is a good character'; 'The strongest in faith are the best in character'; 'God loves those of high morals and turns away from those of inferior character'; 'Good character is godly.' This signifies that God is the highest ideal: 'To God applies the highest/ Similitude' (XVI. 60; XXX. 27).

Since religion, as we have noted, is a 'divine institution', then the morals and religious and secular virtues of Islam have many distinguishing features. There are absolute, divine commandments, recommendations, prohibitions and proscriptions directed to men of sound mind and free will from God, for it is only He who creates and governs (VII. 54). They are essential for an ordered life: 'God commands justice, the doing /Of good, and liberality to kith /And kin, and He forbids /All shameful deeds, and injustice /And rebellion' (XVI. 90). He forbids injustice, prying, calumny, sarcasm and offensive nicknames (XLIX. 11–12) and counsels men to take no heed of the slanders of the unrighteous lest they harm others unwittingly (XLIX. 6).

'God commands you to discharge your trust /And if ye judge between people, judge fairly /Say: "My Lord hath commanded /Justice" ' (VII. 29). Speaking to the Jews and Christians (*ahl al-kitāb*, or People of the Book), the Prophet says: 'And I am commanded /To judge justly between you' (XLII. 15).

He commands truthfulness in words, actions, intentions and promises and whatever comes from God is described as 'truth'. In extolling faith (IX. 119; XLIX. 15), the Qur'ān uses such expressions as 'the lofty rank of truth' and 'truthful tongue' (X. 2; XXI. 84).

Among the things that God taught the Prophet and the believers are the following: 'Say: "O my Lord! /Let my entry be /By the Gate of Truth /And Honour, and likewise /My exit by the Gate /Of Truth and Honour . . ." ' (XVII. 80); 'Say: "The things that my Lord /Hath indeed forbidden are: /Shameful deeds, whether open /Or secret; sins and trespasses /Against truth or reason . . ." ' (VII. 33). Even faith is commanded: '. . . I am commanded /To be (in the ranks) /Of the Believers' (X. 104).

24. Al-Tahānawī, *op. cit.*, p. 503.

It might occur to the reader to ask why it is that the principles of Islamic doctrine should be a matter of commandment if they can be established by rational thought and if the essence of the virtues lies in character traits that respond to conscience and nature for their own benefit.

The answer is that the purpose of the command is to establish responsibility and accountability and to apportion punishment and reward. The prohibition of sin and hateful practices is intended to eliminate any protest or objection that warning of punishment had not been given in advance (XX. 134).

Religion, therefore, affirms the demand for fair reward or punishment already sought by reason and conscience. Man was not created in jest and the destiny of the good cannot be the same as that of the bad (XXIII. 115; XXXVIII. 27–28).

These are universal morals and virtues for general conformity and application. Charity, kindness, justice, fulfilment of promises, truth . . . all these are great virtues that subsume many others and they are not confined to one group. Mercy and justice, for example, must be found in all people as humanity itself is a single family (IV. 1).

According to the *ḥadīth*: 'A believer has not reached true faith until he desires for others what he desires for himself.'[25]

These moral principles apply in dealings with those who agree with us and those who, while disagreeing, are not hostile; with those we love and those we do not love or do not love us; and with the pagans: 'God forbids you not /With regard to those who /Fight you not for (your) faith /Nor drive you out /Of your homes /From dealing kindly and justly /With them' (LX. 8); 'Whenever ye speak, speak justly /Even if a near relative /Is concerned' (VI. 152); 'O ye who believe! /Stand out firmly /For God, as witnesses /To fair dealing, and let not /The hatred of others /To you make you swerve /To wrong and depart from /Justice; Be just: that is/ Next to Piety' (V. 8); 'O ye who believe! /Stand out firmly /For justice, as witness /To God, even as against /Yourselves, or your parents /Or your kin' (IV. 135).

The relation of morals to God is manifold. For example, as the Prophet counselled: 'Be moulded by the morals of God and emulate Him': '. . . do thou good /As God has been good /To thee' (XXVIII. 77); 'Let them forgive and overlook. /Do you not wish /That God should forgive you?' (XXIV. 22).

If man is able to emulate his Maker, this is because the divine breath has been breathed into him.

The Qur'ān says that God is 'on a straight Path' (XI. 56), i.e. that His actions are true and just. Religion, for its part, is also 'a way that is straight' (XIX. 36) and one to which He calls us (VI. 153). The Muslim asks God to

25. Al-Suyūṭī, *op. cit.*, I, p. 919.

'guide us to the straight Path', i.e. that man's will may conform with that of his Creator.

Faith is the guarantee of the value and reward of action. All good things and actions, including morals, are linked in the Qur'ān with faith in God. According to the *ḥadīth*: 'Faith is what is firmly established in the heart and is attested by actions.' Action without faith, therefore, will be to no avail. Let us consider this point in some detail.

In the Qur'ān, according to the principle of requital in proportion to action (XL. 17; LXVI. 7), reward and felicity are promised to those who do good of all kinds and this is just.

However, there are also expressions in the Qur'ān such as: 'in the cause of God' (II. 262), 'seeking the face of God' (II. 272) and 'for love of God' (LXXI. 9), i.e. without expectation of reward or gratitude. All of these are concerned with good deeds and the performance of religious obligations such as spending of one's wealth, *jihād*, feeding the needy, steadfastness and returning evil with good (XIII. 22). In particular, reward will go to those who purify themselves by spending their wealth, having in their minds no favour from anyone for which a reward is expected in return, 'but only the desire to seek for the Countenance of their Lord Most High' (XCII. 18–20).

We may add that the righteous do what they do because they are seeking to please God and to 'strengthen their souls' (II. 265), a phrase of special significance in Islam.

Let us now consider: if the Qur'ān commands justice and kindness, enjoins mercy and compassion, insists on all the religious virtues and the doing of good, and praises sacrifice and love, what is the motive and aim of all this?

In reply, it has to be said that if such things proceed from human sympathy and love, free from ulterior motive and on the basis of human fraternity, 'desiring for one's brethren what one desires for oneself', then they are worthy of the highest esteem for they correspond to the instincts which God has placed in everyone and so bring happiness to oneself and to others. It is evident that actions performed without anticipation of reward are of the highest value.

According to the Qur'ān, however, there is a higher position, which does not conflict with what has just been said, and this involves the connection of the act, through motive and aim, with God: on the one hand, because the Lord, as Creator of all things, is the source of all right and good and the highest aim in doing good; on the other, first and above all, to guarantee the value of good followed by reward for whosoever seeks it, upon satisfaction of divine requirements. Who but God holds in His hands the whole of life and existence? Who but He knows every motive and intention and has the power to requite every action? He it is that set in place the system of morals in the nature of man and life and He it is that maintains and guarantees their value.

There will, of course, be those who contend that to do good is in itself good and this is why man does it. Let us take note here that the Qur'ān for ever enjoins us to aim, in matters of faith and conduct, for what is 'good', 'best' or 'most favourable'.

Similarly, others will argue that good is of benefit to man and is necessary for this reason. This is a pragmatic judgement based on the idea that man has value for his own sake and that attention must be paid to what is really useful to him. Let us here remark that concern for human interests is a fundamental principle of Islam and the *shari'a*.

Let us not imagine, however, that good and virtue bring nothing but benefit and advantage. The fact is that they make great demands and may be compelled to override personal happiness or repose.

Nevertheless, if moral action is performed in 'seeking the Countenance of God', man and his moral character will be merged with the ideal on a higher level of existence.

Referring back to the phrase, 'to strengthen their souls', the special significance is that there is a firm conviction in the spirit of the one who acts. Hence, moral action is not merely a response to an order but also to thought, knowledge, esteem and faith in the virtue of the action and its conformity with the will of God.

Within the moral universe of Islam, it is a principle that 'actions depend on intentions and everyone shall receive as he intends'. When man acts for God, he will receive his reward from God; when he does not so proceed, his efforts will be in vain.

This is what is found in the Qur'ān with regard to the position of those who deny the existence of God consciously and with stubborn awareness or those who recognize His existence but turn away from Him.

Chapter 2

A DELICATE BALANCE: RIGHTS, RESPONSIBILITIES, FREEDOM

Tuhami Negra

Rights in Islamic law

The rights of God and of His creatures constitute one of the most important aspects of God's message to mankind, as revealed through the Scriptures and through the words of the prophets. God's message to mankind provides guidance for righteous conduct and therein is the justice on which heaven and earth are founded. Almighty God says: 'We sent aforetime /Our apostles with Clear Signs /And sent down with them /The Book and the Balance /(Of Right and Wrong), that men /May stand forth in justice' (LVII. 25).

The *shari'a* (Islamic law) establishes standards of justice that are applicable not only among Muslims but also between them and non-Muslims. In His Holy Book, God has ordered us to overcome our feelings and not to allow any hatred people may harbour for us to cause us to treat them unjustly or deny them their rights: 'Let not /The hatred of others /To you make you swerve /To wrong and depart from /Justice' (V. 9). Hence anyone who oversteps the bounds of self-defence in repulsing aggression commits an injustice. This is what Almighty God means when He says: 'Fight in the cause of God /Those who fight you, /But do not transgress limits; For God loveth not transgressors' (11. 190).

Thus man, whom God has exalted above all His other creatures, has his dignity and has rights in respect of his life, convictions and property which are inviolable regardless of any considerations of colour, race or religion, for all men are equal in rights and duties. According to a *hadith* related by Ibn Māja, 'The true believer is he whom people can trust with their property and lives.' The word 'people' in this context means all people and not Muslims alone.

For this reason, the believers bear the burden of responsibility for upholding the rights of God and the rights of His servants, both by their own actions and by calling others to do likewise. This means that they comply

with the commands and prohibitions of God. Every individual is fully responsible for himself before God: 'Every soul will be (held) /In pledge for its deeds' (LXXIV. 38).

Everyone is responsible for the duties God has imposed on him or the trust he has bestowed on him: 'Each of you is a shepherd, and each of you is responsible for his own flock. The imam [head of the community] is a shepherd and is responsible for his flock. A man is the shepherd of his family and is responsible for his flock. A woman is the shepherd of her husband's household and is responsible for her flock.'[1]

This well-known *ḥadīth*, related by al-Bukhārī, contains a general rule linking authority and responsibility and specifying the relationship between those who wield authority and those who do not in a manner which defines the rights, duties and responsibilities of all.

According to the *sharī'a*, accountability may result from the intent (*niyya*) to commit a wrong action, even if no wrong action is actually committed. Thus, a person who means to disobey the *sharī'a* by committing a prohibited action or refraining from performing a prescribed action but whose actions happen accidentally to be consistent with the *sharī'a* is still considered a wrongdoer. But in systems of positive law, accountability arises only when a person does something he should not do or fails to do something he should do.[2]

The *sharī'a*'s view of rights and duties is characterized by equity and balance. The relationship between the two is what determines the coherence and logic of the entire *fiqh* system, which cannot be examined in detail here, for lack of space.

Equity is the cornerstone of justice. Thus we find that Islam regards people as being on an equal footing in terms of their rights and responsibility for their actions and behaviour, and applies its rules to everyone without discrimination.

No one, however high his position – even if he be the Prophet himself – may exempt himself or anyone else from the duties that God has imposed on His creatures, be they rights due to God, such as faith and worship, or rights due to God's servants, such as obedience to parents and neighbourliness. Nor may anyone prohibit another person from exercising a right bestowed on him by the *sharī'a*, such as the right to do something lawful that he is capable of doing.

The Prophet set an example. Indeed, his awareness that his responsibilities were heavier than anyone else's caused him to exert greater efforts than anyone else seeking the truth and made him more God-fearing than anyone else with respect to God's rights and the rights of God's servants.

1. Al-Suyūṭī, 1934, I, p. 244.
2. Al-Shāṭibī, n.d., II, p. 337.

Umayyad Mosque, Damascus (Syria)

Jean Gaumy © Magnum, Paris

This fact is further confirmed by what the Prophet said to his followers when he realized that he was about to depart from this world. According to al-Ṭabarī:

> When the Prophet was in his final illness, he addressed the people in the following terms: '. . . I am about to depart from amongst you. If I have whipped the back of any one of you, here is my back, let him retaliate. If I have reviled any one of you, here I am, let him retaliate. If I have taken anyone's property, here is my property, let him take it; he need fear no grudge on my part, as I am no longer concerned. The one amongst you who is dearest to me is the one who recovers from me what is rightfully his, or renounces his claim, so that I may meet my Lord with a soul at rest.'[3]

Balance: Islam is characterized by moderation in general, following a middle course in matters of the rights of God and particularly in matters of the rights of God's servants. As regards the latter, i.e. the rights of human beings, the basic principle is that no right should be satisfied at the expense of another. The aim of the *sharī'a* is to ensure justice through the preservation of a balance between rights and obligations, safeguarding the rights of the individual and the interests of society by means of established and accepted rules such as the prohibition against doing harm and the requirement that compensation shall be paid when such harm occurs.

The concept of balance implies flexibility and generosity in the exercise of rights. Moderation is flexibility and generosity, and flexibility and generosity are the opposite of intransigence. Hence Muslim law warns against the abuse of rights.

Having now outlined the general framework of rights and responsibilities in Islam, it remains to us to define them. First, we must set out some of the meanings attached to the idea of right in the Qur'ān and the works of the jurists.

The idea of 'right' in Arabic is extremely wide-ranging, as can be shown on the basis of a semantic approach. The Arabic word *ḥaqq* (right) has several meanings. Al-Damaghānī[4] distinguishes no fewer than thirteen meanings attached to the word in the Qur'ān, namely: God Himself, the Qur'ān, Islam, equity, monotheism, sincerity, truth, obligation, legitimacy, lawful possessions, order of precedence, luck and need. A detailed look at the various meanings of this concept would take us too far and we shall therefore confine ourselves to those aspects relating to Muslim law, which is the subject of this chapter.

The early authorities on *fiqh* did not define the term *ḥaqq* according to its metaphysical or logical dimensions; they confined themselves rather to the linguistic aspect. Thus they used it for the most part to denote a legal right

3. Al-Ṭabarī, 1966, III, pp. 189–90.
4. Al-Damaghānī, 1970–1971, p. 132.

arising from the *shari'a*, such as the wife's right to maintenance, the right of presumption, the right of custody and so on. Some, however, have defined a right (*ḥaqq*) as an established interest of a person. But this definition is utilitarian, shaky and inadequate, as it does not cover the rights of God, which are so important in Islam: Almighty God is infinitely exalted and cannot be said to have an interest in the rights due to Him from his servants.

For this reason al-Qarāfī divided rights into two parts: the rights of God and the rights of men. But Qāsim al-Anṣārī objected to such a division, on the ground that man's acquisition of God's commands and prohibitions constitutes a temporal occurrence, while God's orders and prohibitions are sempiternal because they are part of His eternal Word, and temporal occurrences cannot have any connection with what is sempiternal.[5] The definition given by al-Taftāzānī (d. 797/1389) is probably the most satisfactory. He defined God's rights as those involving the general welfare to the exclusion of any particular individual benefit, in contrast to the rights of human beings, which involve private interests. This controversy, in which jurists revelled for centuries, is not without significance, as it illustrates the complexity of the very idea of right.

The rights of God

The rights of God comprise rights that no one shares with Him, such as acts of devotion, for they are dedicated to God alone. The Prophet Muḥammad said: 'It is God's right that His servants shall worship Him and not associate anything with Him.'[6] Through the worship of God and through prayer man is introduced into the divine order. The divine order defines the frontier between good and evil, the sacred and the profane, the licit and the illicit. Thus no one may modify this frontier, outlawing the licit or legitimizing the illicit (V. 3, 87).

By virtue of His being their God and their being His servants, God has the right to forbid men anything He wishes and to permit them anything He wishes, but none of His creation has the right to forbid or permit anything. Anyone who presumed to do so would be infringing on God's right to legislate for His creation. On this point, there is no question of delegating God's sovereignty even to the prophets themselves or, a fortiori, to ordinary men. No one other than God can absolve men from their obligations. Those who confer on other men, priests, monks or rabbis the right of absolution and definition of prohibitions and obligations are considered by the Qur'ān as 'associationists' (*mushrikūn*) because they give to an earthly authority the right to move the boundaries between what is lawful and what is unlawful.

5. Al-Anṣārī, 1925, I, p. 157.
6. Al-Bukhārī, Muslim and al-Tirmidhī.

Doing what is forbidden by the *shari'a* calls for punishment so that the people can be protected, restrained from committing sins and taken back to the way of justice and piety. The penalties imposed by God constitute the *ḥadd* and are meant to punish the failure to observe divine right. Imprescriptible in themselves, they relate to religion, life, honour, the mind or property. The penalties of *ḥadd* prescribed by the *shari'a* punish seven well-defined crimes that fall within the purview of these general conceptions, namely adultery and fornication, false accusations of adultery or fornication, the drinking of intoxicants, theft, brigandage, apostasy and transgression (*baghy*).[7]

Each of these crimes has a penalty explicitly provided for it in the *shari'a*, and thus the judge has no right to increase or lighten the penalty or replace it by another. Nor should he take the personality of the criminal into consideration when passing judgement and imposing punishment. To apply these penalties justly, the judge is required to maintain a rigorous stance towards the guilty and in particular towards himself. It is true that the conditions governing the evidence required to establish guilt differ according to the crime, but the investigation must be far more stringent than in the case of other offences. Works on Islamic jurisprudence explain in detail the procedure to be adopted and agree that for these serious crimes, a great deal of careful investigation is called for, and that should there be any doubt about the guilt of the accused, the penalty may not be imposed, for the Prophet said: 'Spare the Muslim punishment as far as you can. If you find a way out for a Muslim, then let him off. It is better for the imam to err on the side of pardon than to err on the side of punishment.'[8]

Using this *ḥadīth* and others like it, the authorities in *fiqh* have written at length about the element of doubt as a factor making the imposition of the prescribed penalty unlawful. The final judgement is in God's hands and it is better to forgive than to run the risk of disturbing the divine order by an unjust and wrongful decision.

It may also be noted that the rights of human beings result from their relations with one another. In point of fact, one person's rights are another person's obligations, and this interdependence underlies the system of positive rights.

The rights of human beings

Equality among people in respect of rights arises from the fact that all share the worship of one Lord, and all share descent from one father. So there is no difference between rich and poor, nor between black and white, for it was their Maker who bestowed these rights on them, as we find in the *ḥadīth*: 'All

7. See Chapter 12 on crime and punishment in Islam.
8. Al-Suyūṭī, *op. cit.*, p. 43, related by al-Tirmidhī.

of you are descended from Adam, and Adam was created from dust."[9] Consequently, the rights of Almighty God are bound up with all human rights.

The rights of human beings are many and varied and are traditionally classified into four groups: natural, political, civil and personal rights.

Natural rights recognized by the Islamic religion include the following. The right to life: human life occupies an important position in the *shari'a*. Life must be protected from destruction or degradation. Accordingly, for an individual to kill himself or another person is regarded as one of the gravest of sins, for life is the inviolable right of every living person, and no one may be deprived of it. The right to marry, which stems from the creation of man as a sexual being:[10] Islam reproves those who deprive themselves of this natural right and who thus do not participate in the peopling of the earth. The right to work:[11] Islam gives every individual the right to engage in any legitimate work he wishes provided he is capable of performing it. The right to education:[12] every person has the right to education and culture in accordance with his circumstances and abilities. The right to a home: this right makes it possible to found a family and to protect one's home. These rights, currently referred to as 'human rights',[13] are essential in Islam.

Political rights[14] include all the rights that enable an individual to participate in the governing of his country and, in addition, freedom of thought and expression. Since thought is a function of the mind, it is the mind that distinguishes man from other creatures. Accordingly, an individual whose mind has ceased to function has lost one of his most important attributes and has no further role to play in the progress of mankind and the advancement of life.

Freedom of the community lies in choosing its ruler, who supervises all executive authorities. This ruler is a caliph or an imam, but a caliphate can be established only through the allegiance of the majority of those 'who tie and untie', that is to say, people of decisive importance in society. Political freedom nowadays also involves such things as participation in government by standing for election to a legislature or casting votes. Islam is primarily concerned with the essence of things, and so it does not oppose any of the freedoms currently demanded by a process of development that naturally accompanies the change from one generation to another, provided all such freedoms remain within the framework of the principles established by Islam, such as the principle of the *shūrā* (consultation), which was established by the Qur'ān,

9. Related by al-Tirmidhī, Abū Dāwūd, Ibn Ḥanbal and Muslim.
10. See Chapter 5 on the family.
11. See Chapter 10 on economic thought.
12. See Chapter 6 on education.
13. See Chapter 15 on human rights.
14. See Chapter 11 on political thought.

was practised by the Prophet during his lifetime and played an important role in the ordering of social affairs in the early days of Islam.

Basic political freedoms also include freedom of religion: no one may be compelled to adopt a faith he does not wish to adopt. Almighty God says: 'Let there be no compulsion /In religion: Truth stands out /Clear from Error' (II. 256). This is an essential form of freedom of thought and action.

Though Islam has granted husbands authority over their wives in all matters relating to the interests of the family and the community, a man who is married to a woman professing one of the religions based on a revealed scripture, i.e. Christianity or Judaism, cannot force his wife to abandon her religion, nor even prevent her from performing her prayers and rites. In fact, some of the legal schools consider that he should accompany her to her church or synagogue, if she so wishes.[15]

Since a special chapter in this volume is given over to natural and political rights, we have dealt briefly here with these rights so as to leave more room for civil and personal rights, which have been addressed in exhaustive detail by writers on jurisprudence (*fiqh*), and which are relevant to many aspects of Islamic law, notably family law, commercial law and criminal law, as regards both the financial and non-financial implications of the rights in question.

The rights of the family

For the family to flourish, all its members must fully enjoy their rights while always respecting one another. They should be able to blossom within family life and find there the necessary means of fulfilling their mission on earth. Nothing could endanger the human person more than living in a broken or disordered family. There can be no greater threat to the Muslim family than rigid and narrow-minded adherence to particular rites that are adopted as though they had religious or legal force.[16]

Understanding, in respect of the family, begins with the definition of the rights and duties of every member of it. The family is the proper place where responsibilities and rights are mapped out and put into practice. Family rights such as the husband's authority over his wife and the father's authority over his children stem from the individual's affiliation to a particular family by marriage or descent. Relationships of marriage and descent give rise to financial rights such as inheritance, and non-financial rights such as legitimate carnal enjoyment.

The rights of the wife are defined with a great deal of precision. Being the party that can be easily oppressed, she is more in need of protection than the husband. Thus she has been given certain exclusive rights. These include

15. A. A. Wafi, 1967, p. 221.
16. M. Shaltût, 1975, p. 195.

the right to be consulted about her marriage and to be asked for her consent. The Prophet said: 'A previously married woman has a better right to decide for herself than her guardian [*walī*] has to decide for her. A virgin is to be asked for her consent, and if she says nothing she has consented' (related by Ibn Ḥanbal). Those who follow the school of Abu Ḥanīfa are agreed that the consent of a previously married woman, and similarly of a virgin, is necessary.[17] The decision to marry lies with her.

The husband is required to provide his wife and children with food, shelter and clothing, i.e. in so far as he is in a position to do so, in time of hardship no less than in time of prosperity. The Qur'ān says: 'Let the man of means /Spend according to /His means: and the man /Whose resources are restricted, /Let him spend according /To what God has given him. /God puts no burden /On any person beyond /What He has given him' (LXV. 7). Thus God has made it the duty of the husband to provide for his family and to protect its members by virtue of his position as its guardian. But the husband's status as guardian or head of the family does not detract from the wife's personality or her legal capacity to retain her name and the name of her family, to undertake such commitments as contracts of sale, purchase and gifts, to make wills, and to own or dispose of property independently of her husband if she so wishes, because all the above are included in her rights.

The rights of the wife also include the often forgotten right to *khul'*, or divorce at her own request. According to Ibn Rushd, *khul'* is the compensation the wife pays to her husband in return for his consenting to divorce her. Concerning the amount she may pay for this purpose, Mālik, Shāfi'ī and others have stated that the sum may be equal to or greater or less than the wife's bridal dowry, where it is she who seeks a divorce. Other authorities have held that the husband should not be paid more than the amount he originally gave his wife as a dowry,[18] basing this view on a *ḥadīth* from Ibn 'Abbās which states that the wife of Thābit Ibn Qays went to the Prophet and said: 'O Apostle of God, I have no fault to find with Thābit as regards his religion or character, but I am distressed to see his being false to Islam (by offering me a larger settlement than he is required to do).' The Prophet said: 'Do you wish to return his garden to him?' 'Yes', she replied, whereupon Muḥammad ordered Thābit to divorce her (related by al-Bukhārī). Writers on Islamic jurisprudence who have taken this *ḥadīth* at face value have concluded that the compensation for *khul'* should not exceed the value of the dowry, because to accept any larger amount would be tantamount to taking money wrongfully.

A husband cannot force his wife's hand in order to obtain *khul'*. The divorce would then be ordinary divorce (*ṭalāq*) and she would not be required

17. Ibn Rushd, 1981, II, p. 5.
18. *Ibid.*, II, pp. 66–7.

to pay him any compensation because of the element of coercion.[19] A woman who wishes to exercise the right of *khul'* but whose husband refuses to agree to this may bring the matter before the courts.

Of course, just as the wife has rights, so does the husband, and these include willing obedience in all matters that are not prohibited by the *shari'a*: 'if they return to obedience, /Seek not against them /Means (of annoyance)' (IV. 34). The husband exercises guardianship with respect to the entire family but has no authority over the wife's possessions. He is the head of the family and the *shari'a* confers this right on him since his responsibilities are greater than his wife's. It is he who has to work to earn a living and who has to look after the family's needs, whatever the cost, even if his wife is the more educated and wealthier of the two.

A very important right granted to the husband is that of repudiation (*ṭalāq*). It might seem at first glance that this right of divorce which is possessed by the husband represents an injustice to the wife, since it is a two-edged weapon that can be used against the wife without any valid reason. But the *shari'a* has placed restrictions on the right of divorce out of concern for the stability of married life. For example, this right must be exercised in successive stages, so that the husband retains the option of retraction or, if he does not change his mind, can divorce irrevocably after a necessary cooling-off period.

We are told that the caliph 'Umar always chastised men who went as far as the third (irrevocable) stage in divorcing their wives. Almighty God does not like divorce and does not approve of it. It is the most abhorrent of permissible acts in the eyes of God, because it is the dissolution of marriage, and numerous interests, both religious and secular, are bound up with the marriage. However, divorce may serve some interest too on occasion, as where the two spouses are incompatible in character and nature, or where the continuation of the marriage might lead to religious or secular corruption.

Some modern systems of positive law have attempted to set strict limits on the husband's exclusive right for repudiation by introducing legal safeguards to prevent abuses. In any event, this option exists and the husband alone can secure a means of deliverance after all legal remedies have been exhausted and all attempts at reconciliation have failed. Since married life affects both parties to the marriage, the wife enjoys a similar right in certain specific cases. In the event of the husband failing to fulfil the conditions set forth in the contract of marriage, Ibn Ḥanbal holds that the wife, in addition, has the right to stipulate that she will not travel with her husband, or that she will not move from her house or that he is not to marry another wife in addition to her.[20] There are also other cases of divorce at the request

19. Muḥammad, 'Abd al-Ḥakīm, 1914, p. 150.
20. Al-Zarqā', 1968–1969, I, p. 58.

of the wife: poverty, where the husband becomes unable to support his wife and she may prefer not to stay with him; absence of the husband, where the absence is protracted and nothing has been heard of him for a long time; and some defect in the husband, where the *shari'a* regards the defect as sufficiently grave, such as impotence or ill-treatment.

Concerning the man's right to marry up to four women, some authorities have opposed it absolutely and declared polygamy prohibited because of the harm it causes, in their view, to the family and to social life. Others have restricted it to cases where the wife is sterile or ill and made it subject to the condition that the husband must be capable of providing for all his children from his various wives. Still others have allowed it without restriction.

The *shari'a* permits a man to marry more than one wife provided he is not afraid that he will be unable to treat them all fairly as regards his outward actions, though not as regards his love or personal inclination, because these are beyond his control. The *shari'a* is primarily concerned to ensure that polygamy is not prohibited absolutely, and that its legitimacy in Islamic law is acknowledged, while not encouraging it: 'Ye are never able /To be fair and just /As between women, /Even if it is /Your ardent desire: /But turn not away /(From a woman) altogether, /So as to leave her (as it were) /Hanging (in the air)' (IV. 129); and this verse removes any pangs of conscience, in practising the polygamy permitted by God, that might arise from a man's feeling that he should be completely just in everything, which is impossible: it is enough for the husband not to devote himself completely to any one of his wives.[21]

The right to have children is an imprescriptible human right within the context of the family. It is enjoyed by both partners and serves to test the solidity of the marital bonds.[22]

Needless to say, after a revocable divorce a woman is entitled to maintenance (*nafaqa*) and shelter until the end of her legally prescribed period of waiting (*'idda*), and if she is pregnant she is entitled to maintenance and shelter until she gives birth.

Poor parents have the right to be maintained by their children. Poor grandparents and poor grandchildren also have a right of maintenance, in respect of food, accommodation and clothes. Some authorities have held that the right of maintenance is contingent on whether the provider of the maintenance has resources in excess of what he requires for his own maintenance. According to the Prophet: 'If one of you is poor, he should begin by providing maintenance for himself. If he has more than he needs for that purpose,

21. M. Shaltūt, *op. cit.*, p. 202.
22. The chapter on the family considers these matters in detail, in particular the problem of family planning.

he should spend it on his family. If he has still more, he should spend it on his relations' (reported by Abū Dāwūd, al-Nasā'ī and Ibn Ḥanbal).

A wife whose husband does not adequately maintain her and her children has the right to take, without his knowledge, enough of his money to meet her needs. A tradition concerning Muḥammad's wife 'Ā'isha runs as follows: Hind Bint 'Utba, the wife of Abū Sufyān, once came to Muḥammad and said: 'O Apostle of God, Abū Sufyān is a miserly person and does not give me enough for myself and my sons to live on. But can I take money from him without his knowledge? Am I committing a sin?' Muḥammad replied: 'You may properly take what is sufficient for you and your sons.'

A divorced mother has the right to the care and custody of her children (*ḥaḍāna*), since she has a better right to them than anyone else, provided she has not remarried. This is because of the compassion, patience and time she can devote to her children. However, she forfeits this right if she remarries and it is for the courts to decide who has custody of the children, in accordance with complex rules that cannot be looked at in detail here.

The rights of parents

The rights of parents are sacred in Islam. Parents have the right to require their children to be dutiful to them, support them if necessary, and in general be kind to them. Almighty God says: 'And that ye be kind /To parents' (XVII. 23). Children must also refrain from causing their parents any harm at all, even so much as might result from an expression of disrespect. 'Say not to them a word /Of contempt, nor repel them' (*ibid.*).

In addition, it is the duty of children to obey their parents, except where to do so would be sinful; this exception applies even if the parents are unbelievers, since no obedience is due to any person where such obedience would involve disobedience to the Creator. Almighty God says: 'But if they strive /To make thee join /In worship with Me /Things of which thou hast /No knowledge, obey them not; /Yet bear them company /In this life with justice /(And consideration)' (XXXI. 15).

For Muslims, duty to parents takes precedence over collective obligations (*kifāya*) and superogatory acts of devotion (*nawāfil*), and for that reason the Prophet said that it was more important for his followers to associate with their parents than to associate with him, and considered it more virtuous to serve them than to take part in holy wars (*jihād*).

The *shari'a* particularly emphasizes the rights of the mother in this connection: it has even been said that she is entitled to two-thirds of the children's dutifulness to their parents. These rights of kinship are extended to all members of the family, in the broadest sense, and even to neighbours.

The Qur'ān and the *sunna* guarantee these rights explicitly and in detail. The Qur'ān says: 'do good /To parents, kinsfolk, /Orphans, those in

need, /Neighbours who are near, /Neighbours who are strangers, /The companion by your side' (IV. 36).[23] The Prophet, for his part, made similar recommendations, as follows:

> It is your duty to help him [your neighbour] if he seeks your help, to lend him money if he wishes to borrow some from you, to help him if he becomes impoverished, to visit him if he falls ill, to congratulate him if something good happens to him, to offer him condolences if something bad happens to him, to walk in his funeral procession if he dies, to refrain from erecting any high edifice that would prevent the wind from reaching his house, except with his permission, to refrain from tormenting him by the aroma of your cooking unless you offer him some of your food, to offer him fruit if you buy some; but if you do not wish to do so, then carry the fruit secretly into your house and do not let your children carry any of it into the house of your neighbour to spite his children.

More generally, Muslims, as members of the same community, have many rights that every other Muslim is bound to respect. *Zakāt* (alms tax) is but the best-known of the rights of the poor to part of the money of the rich.

Brotherhood between Muslims requires the rich to help the poor and the strong to help the weak, and requires the duty of joint responsibility and solidarity to be observed among them. Consequently, Muslims should not leave the poor among them to the suffering of destitution. To refuse to respect the rights of a fellow Muslim is tantamount to attacking him. This is because duty dictates that he must be allowed to enjoy his rights in full measure: he must be supported if he is oppressed, any pledge made to him must be honoured, he must be assisted in time of tribulation, and he must be treated in accordance with the standards of ethical behaviour and goodwill.

Individual ownership

It is for this reason that, although ownership – and the possession of property in general – is a source of individual rights, these remain dependent on collective rights. Ownership is a right which Islam has bestowed on the individual, for it acts as an incentive to man to work harder, inasmuch as the love of possessions is inborn in man, and it is only right that an individual should be rewarded according to the efforts he exerts. Accordingly, individual ownership is regarded as legitimate, and there is no limit to the amount of goods or services a person may possess. Such ownership is a legal right by virtue of which the *shart'a* allows the owner to dispose of his property in fairness. Nothing prevents a man from exercising this right except legal incapacity. Hence a legal guardian must act on behalf of a minor, a person who is mentally deficient or one who is insane, or in cases of public necessity.

23. 'Companion' should be taken to mean someone who studies or works with you.

Legitimate ownership is established by a number of means, of which the most important are purchase, bequest and inheritance, mental or physical personal effort, blood-money (*diya*), donations, etc. Among the restrictions imposed on the right of ownership are that it may not conflict with the public interest and that it may not override people's right to their basic needs, such as water, nor large-scale economic activities that transcend individual capabilities, such as mining undertakings which are subject to the restrictions of the public authorities. This is because Islam always gives priority to the public interest where it conflicts with private interests.

Some restrictions pertain to the owner himself, such as the requirement that he shall be prudent in his actions and neither extravagant, injurious or negligent. This is why the property of minors and those who are mentally deficient or insane is subject to the supervision of a guardian: otherwise the owner's freedom of action would be detrimental to the general welfare.

Bringing land under cultivation and developing it is an action that gives rise to the right of ownership. According to a *ḥadīth*: 'He who brings under cultivation land that does not belong to anybody else has the best right to it.' Similarly, the Prophet said: 'He who possesses land should either cultivate it or relinquish it' (related by al-Bukhārī). The caliph 'Umar applied that principle during his caliphate.

An owner's rights include the right to the free disposal and use of this property to provide for himself and his dependants, such as his wife, children and near kindred, and to contribute to any number of charitable purposes at his discretion.

Another aspect of ownership, however, is God's right to the alms tax (*zakāt*), which is levied in accordance with specific criteria and in specific conditions. It goes to the poor, to the treasury (*bayt al-māl*) or to the community, which uses it for such purposes as financing the *jihād*, the general welfare, social projects such as the building of mosques, schools and hospitals, and providing relief and assistance to the poor and needy. 'He who has room to spare on his pack-animal should help one who has none, and he who has extra provisions should help one who has none.'

Sheikh Shaltūt says:

> On occasion revenue from the alms tax (*zakāt*) or other state revenues may be inadequate to meet the needs of the poor and provide basic services. In these conditions, if the wealthy do not voluntarily make additional contributions, but pay only the regular *zakāt*, the ruler has the right to seize from them whatever funds are needed to meet the emergency and ensure justice. He may also do so if they refuse to pay the regular *zakāt*.[24]

24. M. Shaltūt, 1972, pp. 115–16.

Similarly, Ibn Ḥazm states in his book *al-Muḥallā*:

> It is incumbent on the rich of every country to provide for their country's poor, and the ruler may compel them to do so if revenue from the alms tax (*zakāt*) is not sufficient to meet the needs of the poor. Thus the poor can be provided with the necessary food and clothing in winter and in summer, as well as with accommodation and shelter from the rain, the heat of summer, the sun, and the eyes of passers-by.

The author then quotes a tradition according to which the Apostle of God said: 'He who has food for two people should feed a third person as well, and he who has food for four people should feed a fifth if not a sixth.'

Hence it is the responsibility of the Islamic state to provide work for the unemployed and to provide shelter for orphans and the disabled, take care of them in a manner that preserves their dignity, supply them with the means of subsistence and protect their lives.

So far, we have dealt only with rights and duties within the Muslim community. It should not be overlooked that Islam has sought to regulate rights and duties on a universal basis and guarantees certain essential rights for non-Muslims in Islamic countries.

The rights of non-Muslims in Islamic countries

Just as the *sharī'a* regulates relations between Muslims, so it regulates their relations with others in order to safeguard the rights of all and to give universal bearing to the concept of law.[25] Non-Muslims living in Islamic countries deserve, more than anybody else, to enjoy respect for their rights. The *dhimmīs*, namely, the People of the Book, Jews and Christians, have certain rights *vis-à-vis* Muslims by virtue of the covenant of protection – the *dhimma*: it is the duty of Muslims to protect these 'protected communities' living under an Islamic government and to honour their rights in return for the special tax (*jizya*) which they pay as a contribution towards the state's expenditure on services, including the provision of security, since they are released from military obligations (*jihād*).

Their rights include the freedom to practise their faith and not be forced to adopt another, and consequently the right of protection for their places of worship and freedom to perform their religious rites in safety.

Khālid Ibn al-Walīd permitted the Christians living in the areas under his authority to ring their bells whenever they wished, except at Muslim times of prayer, and to carry crosses during their festivals. Ibn al-Qayyim held that a Christian woman married to a Muslim had the right to bring a cross into her

25. See Chapter 13 on minorities.

husband's house and to perform the rites of her religion, and that her husband had no authority to prevent her from doing so.

Non-Muslims enjoy the right to have their civil and criminal cases tried according to their religion. They also have the right to be protected, by force of arms if necessary, from any domestic or foreign aggression.

The Prophet consistently advocated tolerance with respect to the followers of revealed religions and warned against their oppression. The Prophet said: 'He who oppresses one of the persons to whom a pledge has been made [a *dhimmī*], denies him his rights, requires him to do what is beyond his capability, or takes from him something against his will, will have me as his antagonist on the Day of Judgement' (related by Abū Dāwūd).

In Islam, the concept of right has considerable bearing and can be set on a par with the greatest human formulations of philosophy or law. We can be sure that it is this that has set its stamp on Muslim societies and enabled them to function through the ages.

However, we cannot talk about rights without saying how they are exercised and enjoyed. Rights accordingly go hand in hand with responsibilities that give them their place in everyday life. Since I have rights, I am responsible for their being applied to me just as much as to anyone else. In my day-to-day life I am responsible for having my rights respected. But the best way to ensure that my rights are respected is to respect those of others. We are all responsible for one another, and together we are responsible for the whole of society. There are personal obligations (*farḍ 'ayn*) like prayer or *zakāt*, but there are also collective obligations (*farḍ kifāya*) that are incumbent on everyone, but it is enough for one member of the community to discharge them for the other members to be released from them.

Responsibility

We thus find in Muslim law particularly important details that have raised the formulation of the theory of responsibility to a very high level. In Islam, responsibility is not confined to the mere idea of guilt and punishment. One's responsibility is engaged from the moment one has all the capacities required to perform a duty. Responsibility is not diffuse. It consists of being an independent personality, having the ability to shoulder a trust and to honour commitments, freedom in the use of thinking and reasoning faculties, competence to weigh up and decide, and the awareness of being able to change things and change oneself, and to make judicious choices.

In his voluntary, independent actions, man is sovereign and responsible. His responsibility stems from his sovereignty: the greater the scope of the latter, the greater his responsibility, and the smaller the scope of his sovereignty and power, the slighter his responsibility. Responsibility is freedom.

In shouldering the burdens of the responsibility and trust that he must

bear in his capacity as God's vicegerent on earth, man enjoys the natural privileges of speech, the power of understanding, freedom and the ability to act, reason and will. Reward and punishment in connection with this kind of responsibility depend on both actions and intentions. The materiality of the action and the desire that lies, or does not lie, behind it are the two hallmarks of responsibility.

Indeed, under some circumstances intentions are more important than actual actions. Thus, for example, the faithful earn merit for keeping vigil at night and enlisting for the holy war, but if they are prevented from performing these actions, they earn merit none the less. As the Apostle of God said: 'Intention is what determines the value of an action' (*innamā 'l-a'māl bi 'l-nyyāt*).

He also said: 'If a person intended to perform a meritorious action but could not, he will be considered as having performed it.' The same applies to evil deeds. For this reason, a legally competent person is held not to have sinned if his action was performed in error or was due to forgetfulness or coercion, whether the action in question contravenes a command or a prohibition. However, this does not affect the obligation for minors and the insane to pay fines and the alms tax (*zakāt*) from their resources, because these obligations are unaffected by considerations of legal competence.

According to the *shari'a*, then, legal competence is a three-sided concept, involving individual, communal and government responsibility. Every individual is responsible for his actions, and also for those that result from actions he inspires in others. This universal responsibility applies before God. Before human justice, the materiality of the action alone determines legal responsibility on earth. Universal responsibility and personal responsibility are the two poles of the law. The innocent cannot be held responsible for the sins of the guilty. Almighty God says: 'Nor can a bearer of burdens /Bear another's burden.' (XXXV. 18). Almighty God does not punish the living for the sins of their parents or their more remote forebears. The wrongdoer is answerable only for acts that he committed or intended to commit.

Almighty God says: 'Every man's fate /We have fastened /On his neck; /On the Day of Judgement, /We shall bring out /For him a scroll /Which he will see /Spread open. (It will be said to him:) "Read thine (own) record: /Sufficient is thy soul /This day to make out /An account against thee" ' (XVII. 13–14). The individual must therefore be conscious and in full possession of his faculties when committing the act. Responsibility is engaged by acts, even such negative ones as silence or omission.

A Muslim also bears a collective responsibility for the actions of his family which is under his care, the society in which he lives, and the religious community to which he belongs. He can discharge this responsibility only by directing and urging his fellows to engage in right action, and warning and admonishing them against wrong action – in a word, it is his duty to enjoin what is good and to dissuade from evil. 'The Believers, men /And women,

are protectors, /One of another: they enjoin /What is just and forbid /What is evil' (IX. 71). The following *hadith* is just as explicit: 'If one of you sees an evil, he must try to right it by his hand, but if he cannot, then by his tongue, and if he cannot, then in his heart, and this is the minimum demanded by faith' (related by Muslim). It is not sufficient for a person who sees evil being done to disapprove inwardly without showing any outward sign of his disapproval. Keeping silent about evil is actually like participating in the sin of committing it.

Muslim law thus even defines cases where a person must intervene and where to fail to do so is to be guilty of wrongdoing. We do not have the right, for example, to remain neutral in the face of fratricidal conflict: 'If two parties among /The Believers fall into /A quarrel, make ye peace /Between them: but if /One of them transgresses /Beyond bounds against the other, /Then fight ye (all) against /The one that transgresses /Until it complies with /The Command of God. /But if it complies, then /Make peace between them /With justice, and be fair /For God loves those /Who are fair (and just)' (XLIX. 9). This is also true in cases of corruption, moral decay and injustice or when there are appalling differences between the members of society, with some people living in luxury while others live in abject poverty and subsequently sink into deprivation and starvation. Society is responsible for this situation. Likewise, everybody bears responsibility for emergencies, and for natural or political disasters.

But, of course, it is the responsibility of the state to adjudicate in conflicts and enforce people's rights, to run the affairs of the society, to protect it against movements that subvert the principles of morality and religious values, to uproot all types of corruption and evil, to establish peace, to implement agreements and treaties concluded by it with other countries, and to honour its pledges to other states. The government's responsibility includes not only the preservation of internal and external security but also the exercise of supervision over all matters that fall within its sphere of competence.

We see how far this conception of rights and responsibilities can go. It has made the *fiqh* operational. Both historically and in our time it has played a considerable role in ensuring harmony in society and in incorporating the major principles of the Qur'ān into everyday life. Islam has thereby been able to put down roots on earth. Believers have thereby been granted all that they could expect from their society. But they have thus been treated as free and reasonable adults, that is to say, as responsible beings.

Chapter 3

MORAL THOUGHT

Habib Fekih

MORALITY: MEANINGS AND SCOPE

The word *khuluq* or *khulq* denotes character or natural disposition. It has two meanings: one describes man's innate nature, which may be praiseworthy or blameworthy, and the other is adherence to the provisions of the law (*shar'*) and the rules of life it lays down. The Prophet said: 'Piety is good morals' (reported by al-Tirmidhī).[1]

Morals (*akhlāq*) denotes all the actions that come from the soul, whether praiseworthy or reprehensible. An understanding of these actions leads: (a) to an understanding of the virtues, and how to acquire them in order to uplift the soul; and (b) to an understanding of the vices in order to avoid them.[2]

In a wider sense, morality as a science defines good and evil, shows what interpersonal relations should be, clarifies the aim people should seek to achieve in their actions, and lights the way to be followed.[3]

From society's point of view, morality represents the set of rules that govern human behaviour and tend to preserve the integrity of society, develop it and reform humankind. It is thus one of the forms of social consciousness.[4]

Morality being the essence of civilization, and indeed of the nation, many Islamic thinkers have concerned themselves with it, including philosophers who have drawn on the Greek philosophical heritage and gained inspiration from Indian and Persian morals and wisdom, thus bringing out the common ground between civilizations. The Brethren of Purity (Ikhwān al-

1. J. Ṣalība, 1971, 1982, *sub voce*.
2. Miskawayh, 1969, p. 80.
3. M. A. Amīn, 1953, p. 2.
4. 'A. M. al-Mājid, n.d., p. 7.

Ṣafā'), for their part, have distanced themselves from other Muslim philosophers in maintaining that the moral dimension of Islam has taken an educational form; they regard this as the particular feature of Muslim ethics.

Others such as Miskawayh, Ibn Ḥazm, al-Māwardī and before them Ibn al-Muqaffa' have also dealt with this question in their writings.

They all studied the question of morality within the framework of the same Islamic view: they analysed the forces that cause virtues to be acquired, and attributed to morality the aim of restraining man's natural character[5] and temperament.[6]

The similarity these authors found between the religious, the moral and the philosophical positions led them to conflate these different viewpoints, all the more because at the time the moral question was the real foundation on which religions were based.

As morals emanate from man, reforming thinkers, like philosophers, tried to find the sources of morals in man: and this led them to state first of all that morals, virtues and vices are not innate but acquired by theoretical and practical thinking, and that virtue becomes ingrained and materializes through repetition and habit.[7] This disposition to virtue, together with self-control, allows man to achieve fullness or perfection.

They also studied the way the soul assimilates morals and virtues, concluding that morals start with knowledge of oneself.[8] This science of behaviour deals with knowledge of qualities and defects.[9] Morality is conduct, policy and management, i.e. everything covered by the word *ri'āya* (protection) in the *ḥadīth*: 'You are all shepherds, responsible for your flocks . . .' (al-Bukhārī, al-Tirmidhī, Ibn Ḥanbal, in various chapters). *Ri'āya* operates at several levels: it involves taking care of oneself, one's home and Islamic society. Muslim philosophers often speak of three kinds of politics: the direction of one's own life, the management of one's personal entourage and the conduct of public affairs.

The first is government of oneself,[10] knowledge of oneself and one's morals, and control of one's own words and deeds when in the grip of passion, anger or pleasure – in other words, thought about all one's own affairs.[11]

5. Al-Tawḥīdī, 1953, I, p. 148.
6. Ikhwān al-Ṣafā', *Rasā'il*, I, p. 366.
7. Al-Fārābī, 1971, pp. 30–1; Ikhwān al-Ṣafā', *Rasā'il*, I, p. 366.
8. Ikhwān al-Ṣafā', *Rasā'il*, I, p. 368; al-Fārābī, *op. cit.*, p. 26, where he says that he who deals with souls must know the soul as a whole, but must also know its parts, its shortcomings, the vices that influenced it and the attitudes that impel man to do good. See Miskawayh, *op. cit.*, pp. 63–4; and Ibn Ḥazm, 1961, pp. 14–15.
9. Al-Tahānawī, *Kashshāf iṣṭilāḥāt al-funūn*, I, p. 32.
10. Ikhwān al-Ṣafā', *Rasā'il*, I, p. 274.
11. See Ḥātim al-Ḥāmidī, manuscript, p. 75a.

The second[12] is the ability to manage one's household affairs, earn one's livelihood, look after one's servants, one's children, one's slaves and one's relations, entertain good relations with one's neighbours, maintain close links with one's brothers, respect their rights, make sure they have enough to live on, and consider their interests in this world and the next.[13]

The third consists of directing the affairs of communities, like princes who run countries and cities.

Certainly these politics and forms of management and behaviour combine social and moral thought and are all concerned with the training of the soul. As the Brethren of Purity say:

> Whosoever succeeds in managing his body properly is able to manage the affairs of his family and servants; whosoever manages his family properly is able to manage a tribe; whosoever manages the affairs of a tribe properly is able to manage those of all the townspeople; and whosoever manages the affairs of the town properly is able to manage the implementation of divine law.[14]

Politics in this sense is seeking the good of the whole of creation, keeping it in the best possible condition and bringing about its perfection.[15] It is also reforming people's morals by guiding them on the road to salvation in this world and the next.[16] This politics is what is called moral wisdom; its object is the human soul, with its capabilities and moral qualities; its aim is the complete achievement by the individual of his potential in relation to himself and his group, private or public.[17] The subject of morals, practical wisdom or political science has to do with man and his soul, which is his intrinsic truth. Political science was said by al-Fārābī to be whatever improves the soul, makes it acquire virtues and engrains them. The soul is not naturally inclined to be virtuous: this is why it has been given knowledge and wisdom, for it is reason that discriminates between what is good and what is evil[18] and is the source of laws. Muslim philosophers, despite their belief in reason, did not ignore the teaching of the religious law about morals, and worked to reconcile this teaching with that of philosophy.

Religious thought thus treated morals as the cornerstone of its structure and the vehicle of relationships between individuals and groups, following in this the teaching of the Qur'ān:

> It is not righteousness /That ye turn your faces /Towards East or West; /But it is righteousness /To believe in God /And the Last Day, /And the Angels, /And

12. Ikhwān al-Ṣafā', *Rasā'il*, I, p. 274.
13. *Ibid.*; al-Ḥāmidī, *op. cit.*, p. 75b.
14. Ikhwān al-Ṣafā', *Rasā'il*, III, p. 48; al-Khwārizmī, 1984, p. 154.
15. Ikhwān al-Ṣafā', *Rasā'il*, I, p. 324.
16. Al-Tahānawī, *op. cit.*, I, p. 664.
17. *Ibid.*, p. 40.
18. Al-Fārābī, *op. cit.*, pp. 50–7.

the Book, /And the Messengers; /To spend of your substance, /Out of love for Him, /For your kin, /For orphans, /For the needy, /For the wayfarer, /For those who ask, /And for the ransom of slaves; /To be steadfast in prayer /And practise regular charity; /To fulfil the contracts /Which ye have made; /And to be firm and patient, /In pain (or suffering) /And adversity /And throughout /All periods of panic. /Such are the people /Of truth, the God-fearing (II. 177–181).

The Prophet said: 'This Qur'ān is the strong rope of God; it contains justice, the stream of knowledge, the spring of the heart' (al-Dārimī, *faḍā'il al-Qur'ān*, 1); 'He who holds my soul in his hands shall not convert a slave to Islam unless his heart and tongue are made whole' (Ibn Ḥanbal, I, 287); 'I have been sent to bring good morals to perfection' (Mālik, *ḥusn al-khuluq*, 8; Ibn Ḥanbal, II, 281).

These texts certainly show that religion is morals. Religion has two aims: knowledge of the absolute, i.e. God, and His worship; and morals, viz. the force that makes people do good and stops the soul being carried away by passion. In other words, religion calls for theoretical virtue (knowledge) and also for practical virtue (good behaviour).

Since practical virtue subsumes all human activities and relationships, it is moral law that points the way in the field of human relationships, namely balance between individual desires on the one hand and the needs of the group on the other.

Religion regards divinity as an organizing and caring principle on the one hand and a source of authority and legislation on the other. Perfect religious law, therefore, is one which combines knowledge of divine truths, venerated by the soul, with the various activities of everyday life.

Thus the Law comprehends ethics and all the laws that govern relations between individuals and peoples, and sanctifies all their precepts. Hence the adoption of individual and social virtues is a form of obedience to the precepts of religion and a real sign of worship of God, who establishes a perfect balance between the various aspects of human activity and harmoniously modulates its relationships and behaviour.

According to our view of the spirit and aims of religion, there would seem to be no difference between religion and morality, even though the word *dīn* (religion) has divine connotations and conveys meanings apparently outside the realm of morality, whereas the word *khuluq* (morality) is characterized by a human connotation, like virtue. The divine is mingled with the human and the human with the divine, and even less easily interpretable features of religion such as obligations count as virtues, for they are their foundation and lead people towards them: 'for Prayer /Restrains from shameful /And unjust deeds' (XXIX. 45). If this applies to prayer, it also applies, as we shall show, to the other obligations, for they all aim for the good,

strengthen its foundations, protect from blameworthy deeds and eliminate their causes.

The texts also indicate that purity is attained through piety, for piety protects the soul, and brings obedience to the precepts and avoidance of what is blameworthy. In other words, it protects the soul from sin and from what leads to it.

For true believers, it is piety that enables people to avoid divine punishment by obeying God, and to protect the soul from acts and omissions deserving punishment.

Piety consists of showing sincerity in obedience and desisting from disobedience.[19]

The Prophet said: 'Piety is the sum of all that is good'; 'Between Arab and non-Arab, there is no distinction save in their piety' (Ibn Ḥanbal, V. 411); 'The strongest of bonds is piety,' and so on.

Moreover the word 'piety' (*taqwā*) occurs frequently in the Qur'ān. For instance: 'The most honoured of you /In the sight of God /Is he who is the most /Righteous of you' (XLIX. 13). In every case, it denotes obedience and sincerity in word and deed, the shunning of all disobedience and the fulfilment of God's commands.

Ḥātim Ibn Ibrahīm al-Ḥāmidī al-Ismā'īlī considers that: 'Piety means both knowledge, action and belief; it also implies the fulfilment of the precepts of the Qur'ān and God's commands and the renunciation of what God has forbidden.' This requires knowledge, for he who is without knowledge is unable to turn away from polytheism and anthropomorphism. Polytheists, anthropomorphists and all who engage in idolatry are without piety. Piety is the adoption of all the virtues and the rejection of all the vices. God said: 'The noblest of you in the eyes of God is the most pious'; 'The dress of piety is goodness'; 'Believers, be pious in worshipping God'; and 'The pious will be provided with ways out of difficulty and benefits where they are not expected.'[20]

Piety is the hub of the *sharī'a*, for God said: 'Fear God as he should be /Feared' (III. 102). Hence one must do good, abstain from vice and turn away from it.[21]

All the meanings of piety are embodied in uprightness, which consists of practising obedience and avoiding sin.[22] Uprightness is also the right path, which is halfway between the two extremes that lead to aberration. The right path is the true religion, Islam and the Qur'ān, the uprightness enjoined in the verse: 'Be upright as ye are commanded.'[23] According to al-Qushayrī's *Risāla*,

19. Al-Jurjānī, *Ta'rifāt*, p. 68.
20. Al-Ḥāmidī, *op. cit.*, p. 75a.
21. Ibn Taymiyya, 1969, p. 49.
22. Al-Tahānawī, *op. cit.*, II, p. 1227.
23. For the meaning of *taqwā*, see Ḥ. Āmilī, 1969, pp. 94–5.

uprightness is a stage at which the perfection of things is achieved, and when it is attained, the good is brought about and organized.[24]

Uprightness or the right path is the true path. Justice, which means uprightness, consists according to Muslim law of following the right road, turning away from what is forbidden and encouraging the ascendancy of reason over passion.

Equity is synonymous with justice, i.e. level-headedness, uprightness and a predilection for what is right. It is a happy mean between too much and too little.[25] According to the jurists, it consists of 'the virtue people bring to performing their religion, and nobility (*muruʾa*) of the soul; they explain this term by saying that nobility of the soul consists of adorning oneself with everything that beautifies and avoiding everything that disfigures or sullies'.[26]

To philosophers it is the ideal principle, natural or positive, that defines the Law and requires it to be observed and enforced.

Justice is of great importance in Islam; it is regarded as next only to piety. According to Boisard, it is the hub round which the essential moral values revolve.[27]

We observe that there is no contradiction between justice (*'adl*) and charity (*iḥsān*). Charity is not piety, generosity, compassion, sympathy or any other feeling that puts a barrier between benefactor and beneficiary or sets up a distinction of rank between them. Charity can exist only to the extent that its author sees men with the eyes of God, so as to justify giving himself without limit and give God the image of man.[28]

The Revelation urges Muslims 'to feed the poor, orphans and captives'. Thus the relationship between high and low, rich and poor, benefactor and beneficiary, he who does good and he to whom good is done, from being a relationship of domination, becomes one characterized by love of God. It could even be said that the beneficiary disappears completely behind this love, for the recipient is God and none other. In other words, this relationship, whose purity is untarnished by fear, greed or hypocrisy, is carried out in the sight of God and under His control; this control is man's knowledge that God is aware of what he is doing, and that he remains under His control.[29]

Like religion, faith and devotion are based on uprightness and justice. What has been said about piety, justice and uprightness can no doubt be said about faith and devotion: they too can only be carried out with sincerity, viz. the absence of hypocrisy in acts of piety.

24. Al-Qushayrī, *al-Risāla al-qushayriyya*, p. 103.
25. Al-Jurjānī, *op. cit.*
26. Ibn Taymiyya, *op. cit.*, p. 139.
27. M. Boisard, 1980, pp. 117–19.
28. A. Lalande, 1980, pp. 138–9.
29. Al-Qushayrī, *op. cit.*, pp. 95–6; al-Jurjānī, *op. cit., sub 'al-murāqaba'.*

Thus the life of the individual in Islam is subject to lofty principles, fitting in with his feelings, which secure his happiness as an individual and a member of the human community.

The aim of moral actions

The aim of moral actions is closely linked to conscience, sincerity and intention. Muslim philosophers and scholars consider that happiness is the aim of moral actions. Some of them, however, mean happiness in this world and the next, while for others the only happiness is in the hereafter.

Every action must have an aim, which is the motive for it. Hence every moral action stems from a given motive and is directed to a given goal.

The motive for an action has been called the intention, aspiration or will. All these terms denote a tendency to carry out actions whose only aim is to serve God, which takes account of the purity of the action and the fact that it excludes everything capable of corrupting it, such as pride or hypocrisy.

Intention is the propensity of the heart for what it regards as liable to be beneficial and to avoid what is deleterious.

The law, for its part, defines intention as will directed towards an action to serve God or submit to His authority. An action carried out by someone while asleep or unconscious is excluded from consideration, for it is like an action by an inanimate object. Those who obey hypocritically, to obtain some worldly reward, receive compliments or avoid rebuke are frauds. Intention thus expresses the total propensity of the heart for steadfastness.

Sincerity is close to intention: it is the rejection of hypocrisy and purity of the deed directed towards God in complete secrecy, so that only God knows about it.

Religious thought has emphasized intention, aspiration, will and sincerity, so that intention has come to be regarded as of the essence: 'Man's intentions mean more than his actions'; 'Deeds are gauged by intentions, and every man will get what he intended.' It says in the Qur'an: 'Should he die /As a refugee from home /For God and His Apostle, /His reward becomes due /And sure with God' (IV. 100).

In the same context, the Prophet said: 'Those who emigrate in the service of God and his Prophet, their actions will be rewarded accordingly; and those who emigrate for some worldly matter or to join a woman to marry, their actions will only have the result sought' (al-Bukhārī and Muslim). The texts emphasize that moral actions must combine goodness of motive, aspiration and will with purity of aim. Any worldly reward impairs and corrupts a moral action.

This intention, however, cannot remain undirected, but must be subject to the rules of the Law. In this connection, intention cannot escape knowledge of what God has permitted and what He has forbidden: for judgement of worldly

Maqāmāt of *al-Ḥarīrī*.
A man and a woman accuse one another before the *qāḍī*
while a secretary records their complaints.
Scene painted by al-Wāsiṭī for an edition published in Baghdad in 1237
© Bibliothèque Nationale, Paris

matters comes within the purview of the Law, and the idea of good and evil is related to the divine order, which expresses what religion is.

The Brethren of Purity regard religious ritual, commandments and prohibitions as improving activities, which are necessary because of man's transgressions. God therefore made known to man limits, rules, reasoning by analogy, moderation, justice, equity, law, common sense, good, charity and uprightness.[30]

If religion becomes ingrained in the believer's conscience, and part of his activities and being, it leads him to the profound conviction that he is an actual positive force and that all his actions and feelings are worthless unless they are part of a continual campaign and a ceaseless struggle.

The aim of moral actions is certainly happiness; but this may be taken in several ways, from mere obedience to the divine reward and God's satisfaction. Sincere intentions and will are meaningless unless they go hand in hand with action. For moral actions are the basis and substance of intention. It is actions that determine the reward or happiness that can be attained.

Action, according to al-Ghazālī, is control of the passions that prevent the soul rising up towards God; it eliminates its bad attitudes and its links with evil.[31] Al-Ghazālī also says: 'Here we are concerned only with action as control of the passions and mastery over oneself, reason overcoming the passions and anger when it comes to satisfying one's desires. He who manages to overcome his passions is a free man, he is the king.'[32] Al-Ghazālī stresses, as we have already said, that the aspiration underlying action must necessarily be sincere: 'Everything you do is for God. Your actions must come down to the worship of God or to whatever contributes towards it. It is essential to eat and satisfy one's needs, for this helps man to worship God, even though these actions are the most remote from worship.'[33] Al-Ghazālī emphasizes here the need to overcome the voice of evil in man, by a struggle aimed at defeating the passions of the soul. For man is a slave shackled by the strongest of bonds, namely anger and passion. Victory over the powers of evil opens the way to freedom and so to happiness.

Religion and morals

Many young people in the Muslim world still question the value of religion and the liturgical acts it prescribes, whose individual and social importance is on the decline. Technological and scientific progress in general continues to haunt young people and discourage their religious impulses. In some cases they think that the role of religion came to an end with the advent of modern scientific

30. Ikhwān al-Ṣafā', *Rasā'il*, I, p. 370.
31. Al-Ghazālī, 1964*b*, p. 218.
32. *Ibid.*, p. 192.
33. *Ibid.*, p. 386.

discoveries and the development of the human mind – man's understanding nowadays covering much that in the past lay within the realm of the sacred.

Having conquered many of his fears, and found answers to many questions which earlier fell into the realm of mysterious and terrifying forces, man today has supposedly solved most of the riddles and mastered many of the tyrannical forces of nature; man has discovered in the universe a well-regulated system and unchanging laws governing each of its components. Thus no being could determine the course of events or decide their progress. This view, which seems logical and right as regards the balance of the world and its subjection to unchanging laws, agrees with the writings of religion, which states the same conclusion when it says: 'No want of proportion /Wilt thou see /In the Creation /Of (God) Most Gracious' (LXVII. 3).

But to stop short at these facts and reject everything else is to take a blinkered view of what is under man's nose. It is perhaps the trivial, material aspect of existence that has inspired in mankind the frightening picture of man dying and disappearing like any other animal, his role at an end and his voice silenced for ever.

Despite man's courageous aspirations, the conquest of the unknown is still the hardest problem to solve, the strangest happening and the most impenetrable secret of our universe.

Despite these tremendous advances in the various branches of knowledge, modern man has lost his uniqueness in the universe and started to live like the animals, hatefully brutal, violent and selfish. In this decadence he is more astray than an animal (VII. 179).

Being bigger than the nature with which he has relations, man must transcend the external manifestations of worship if he is to be worthy of the vicariate for which he was created (XVII. 70) and of the destiny God has reserved for him in making him undertake responsibility for it. Nature, with its precise laws, could not stand in opposition to religion, for the latter represents the strongest motive that impels man to uncover its secrets and derive material and spiritual advantage: 'It is He Who has /Made the earth manageable /For you, so traverse /Ye through its tracks /And enjoy of the Sustenance /Which He furnishes' (LXVII. 15; LXXXVI. 5; LXXX. 25). Many other verses about destiny, progress, thinking and meditation urge man not only to uncover the secrets of the universe for his own livelihood but also to understand its limitations, avow the Maker of this piece of work and recognize His greatness, His loftiness and His unity.

For the word 'religion' covers customs, the state, conduct, politics, opinion, judgement and obedience. It is also used to mean the *shari'a*, viz. the *sunna*, i.e. the customs and rules that God has laid down for His servants.[34]

34. Al-Tahanawi, *op. cit.*, I, *sub 'din'*.

Miskawayh defines religion as: 'a divine institution that leads people, with their free consent, to supreme bliss'.[35] Religion is belief and practice: belief in the intimacy of the conscience, and practice by demonstration and proclamation.[36] It is the link that unites straying man with God through acts of worship and the fulfilment of obligations towards God, the community or oneself.[37]

Whatever the definitions, the fact remains that religion directly takes over the organization of the temporal and spiritual life both of individuals and of society, rejecting the mediation of a clergy which would have a monopoly of religion.[38]

If by religion we mean politics, the management of affairs, and method, we perceive the link between religion and the moral basis on which it rests, between religion and the example man must follow in order to strike the happy mean and remain well-balanced by behaving exemplarily and following the eternal path, the right road. Religion and morality are thus identical concepts, as the Prophet said. When asked about the meaning of religion, he replied: 'Religion is good morals.'[39]

The greatness of religion does not come from the fact that it tells us what the future holds, or reveals the unseen, even though this confirms the truth of it. Its greatness lies precisely where its relationship is closest to man and most bound up with his life.

Religion is not simply faith: it is also acceptance and recognition of God's power over us, our submission to His will, and our staunch and active obedience to His all-wise precepts and power.

The same conception holds good also of Islam as a religion. According to Boisard, it is a homogeneous political and social reality and a civilization that has produced a unique concept of the individual and laid down his position in society. The very essence of the religion is conveyed by its name, viz. a confident, active, deliberate submission to the will of God, not resignation or slavery. Moreover the word *Islam* comes from the same root as *salām* (peace), which adds to the doctrinal teachings the sense of harmonious relations with other people.

Ja'far Ibn Abī Ṭālib sums up the content and aim of religion for the Negus as follows:

> God sent us a Prophet whose truthfulness and steadfastness we know. He called on us to come to God to proclaim His unity, to worship Him, and turn away from what we worshipped before. He commanded us to be truthful in our

35. Miskawayh, 1911, p. 221; al-Tahānawī, *op. cit.*, I, p. 52, where he says that religion is a divine state which leads reasonable men, with their consent, to good and prosperity.
36. Ikhwān al-Ṣafā', *Rasā'il*, III, p. 452.
37. M. A. Drāz, 1970, p. 33.
38. M. Boisard, *op. cit.*, p. 36.
39. Al-Ghazālī, *Iḥyā'*, III, p. 50.

speech, to show loyalty, to respect blood ties and the rules of good neighbourliness, and to turn away from forbidden things and bloodshed. He forbade us to commit heinous deeds, misappropriate the property of orphans, or defame virtuous women.[40]

Perhaps the best expression of the message of Islam is contained in the Prophet's farewell sermon. This represents a sort of constitution for Muslims, a testament that they must respect, a summary of the spirit of the message, a limit not to be transgressed, a policy and a guideline for the various relationships between God and man. Below are extracts from it showing the main foundations of the Islamic state.

Verily, your blood, your property and your honour are sacred and inviolable until you appear before your Lord [. . .] Let me tell you what a Muslim is. He is one who is without fault in word or deed in his dealings with others. [. . .] A true believer is one that people trust with their lives and property. [. . .] A true ally of the Prophet is one who leaves behind him sin and bad conduct. [. . .] A true warrior in God's name is one who wars against his base nature in obedience to Almighty God. [. . .] If he holds something in trust for another, he will return it without fail to its owner. [. . .] Behold, all practices of the days of ignorance are now under my feet. [. . .] The blood revenges of the days of ignorance are remitted [. . .] Beware, no one committing a crime is responsible for it but himself. Neither the child is responsible for the crime of his father, nor the father for the crime of his child [. . .] All interest and usurious dues accruing from the days of ignorance stand wiped out. Your wealth is yours so use it without injustice to man or to the law of God through usury [. . .] Verily, I have left amongst you that which will never lead you astray, the Book of Allah and the *sunna* of His Prophet [. . .] All believers are brothers and nothing of his brother's is lawful for a Muslim except what he himself gives willingly [. . .] Listen and obey though a mangled Abyssinian slave is appointed your emir, provided he executes (the Ordinance of) the Book of Allah among you. God says: 'O people, We created you from one male and one female and made you into tribes and nations so as to be known to one another. Verily, in the sight of Allah, the most honoured among you is the one who is most God-fearing' [. . .] Verily, you have one God and one Father. All mankind is the progeny of Adam and Adam was fashioned out of clay. There is no superiority for an Arab over a non-Arab, and for a non-Arab over an Arab, nor for the white over the black, nor the black over the white except in God-fearingness [. . .] Verily, you have got certain rights over your women and your women have certain rights over you [. . .] It is your right upon them to honour their conjugal rights and not to commit acts of impropriety, which if they do, you are authorized by Allah to separate them from your beds and chastise them, but not severely, and if they refrain, then feed and clothe them properly. It is not permissible for a woman to spend of the wealth of the household without the permission of her husband [. . .] Fear Allah, concerning women. Treat them kindly since they are

40. Al-Tawḥīdī, *op. cit.*, II, p. 81.

> your helpers and are not in a position to manage their affairs themselves. For verily, you have taken them on the security of Allah and have made their persons lawful unto you by words of Allah. And your slaves! See that you feed them with such food as you eat yourselves and clothe them with the clothes that you yourselves wear. And if they create mischief and you do not wish to forgive them, then sell them and do not ill-treat them [. . .] O people! No prophet shall be raised after me and no new *umma* shall be formed after you. Behold! Worship your Lord [. . .] There are three things that are enjoined upon the Muslim: work sincerely in God's name, advise rulers well and adhere to the Muslim community for it is your bulwark.[41]

This text broadly acquaints the individual, the community and the imam of the nation with their moral responsibilities, binds them to follow the divine laws, and warns them that he who does not conform to what God has revealed is an infidel, impious and unjust. Every Muslim, however great his pride and arrogance, must bow down when the words 'There is no God but God' are spoken: this formula gives every man a shock and an upset, and in most cases reminds him of his responsibilities and binds him to obedience.[42]

Worship is not confined to the mechanical performance of acts of piety such as fasting, pilgrimage and prayer: it must be associated with the reality of a man's life, accompany his various activities, and express his intentions and aspirations.

Worship embraces a man's actions whether or not their usefulness is apparent and whether or not it is lasting. As the tradition of the Prophet emphasizes, seeking knowledge, smiling at one's brother or greeting him, showing compassion to the poor or the orphan, feeding one's wife, making love to her, endeavouring to carry out an action that is not forbidden, reconciling opponents, commanding good deeds or prohibiting bad ones, removing what is harmful – all these acts are acts of worship. In short, man's life in its various shapes and forms related to this world and the next, which are closely connected with moral law, is worship.

Acts of worship prescribed to link man with God have a twofold role, practical and spiritual. They continually condition man's individual, social and cultural structures. They are the best way for man to attain his objectives, overcome his problems and succeed in his cultural practices. For seen from heaven, man is a dark mass who can only find his way with the help of a light. Hence man must be linked to the source of light, i.e. Absolute God; and it is essential that the light should light up his surroundings so that he may transcend the narrow confines of his individuality – and transcending one's individuality is transcending oneself.

Links with the Absolute, and faith in Him, are capable of freeing man

41. For the complete Arabic text with a commentary, see F. Ḥamāda, 1983.
42. Al-Ghazālī, 1969, p. 46.

from bondage of every kind and bringing him serenity and dignity: 'Take not with God /Another object of worship /Or thou (O man!) wilt sit /In disgrace and destitution' (XVII. 22).

This Absolute is thus the example that we are exhorted to follow and the goal that we must strive to attain. It is life, knowledge, power and justice. It has opened up for man the way that he must follow continually and without hesitation. 'O thou man! /Verily thou art ever /Toiling on towards thy Lord – /Painfully toiling – but thou /Shalt meet Him' (LXXXIV. 6).

This wending towards the Absolute and this incessant struggle are a battle against ignorance, impotence, poverty and injustice, and an emancipation from the constraints of nature, from apprehensions, and from the ghosts and all the false gods to which man used to attribute powers, will and activity.

Faith in the Absolute, on the basis of man's link with it, can only be reinforced and remain real and active through acts of worship that implant it, strengthen it, stimulate it, protect it from the pitfalls of nature and preserve man's equilibrium in society.

Thus acts of worship express both propensity to faith and also the relationship with the Absolute, which can be summarized in one word.

Muslim thinkers devoted great attention to the practical aims of worship in this world and the next. They emphasized that worship is an admirable way of purifying oneself, of behaving well and of having healthy relationships with other people. It is, above all, one of the component features of the personality of the believer. Prayer, for example, creates links of sympathy and love between believers, and helps to bring people together. Miskawayh says in this connection that the *shari'a* and polite manners impel people to come together at prayer and banquets to foster this sociability. This daily assembly is not impossible for the people of every district and every street:

> (The legislator) required all the people of Medina to come together on the same day each week in a mosque big enough to contain them. In this way all the people of the districts and streets come together every week just as the members of one household come together every day. Thus the sociability that links them is refreshed, and they all feel themselves united by a bond of affection. Thus (they reach) a state of general sociability, affection, well-being and happiness like that of people who come together every year, every week and every day. In short, they are all united by this natural sociability for their common good, and love of the religious law revives amongst them.[43]

Ibn Taymiyya considers that good prayer is a guarantee of the performance of other duties. It helps people to perform other acts of piety which protect against blameworthy deeds;[44] and also to discharge obligations such as legal

43. Miskawayh, 1911, pp. 220–1; 1969, pp. 218–19.
44. Ibn Taymiyya, *op. cit.*, p. 23.

alms-giving (*zakāt*), which is prescribed to purify the soul from all forms of avarice, in other words to strengthen social ties by a determined effort of solidarity and co-operation. It stems from piety, which is sincerity in words and deeds, and the education of the soul to transcend self-interest for the benefit of the group and to consider that all men are fellows, distinguished only by the nobility, sincerity and piety of their actions.

The Qur'ān itself stresses 'the social character of religious duties':[45] 'So woe to the worshippers /Who are neglectful /Of their Prayers, /Those who (want but) /To be seen (of men) /But refuse (to supply) /(Even) neighbourly needs' (CVII. 4–7); 'For Prayer /Restrains from shameful /And unjust deeds' (XXIX. 45); 'Have we not shown him /The two highways? /But he hath made no haste /On the path that is steep. /And what will explain /To thee the path that is steep? – /(It is) freeing the bondman; /Or the giving of food/ In a day of privation /To the orphan /With claims of relationship /Or to the indigent /(Down) in the dust' (XC. 10–16).

Islam not only emphasizes social co-operation and solidarity, but also covers the psychological aspect; for the Qur'ān says: 'Nay, nay! But ye /Honour not the orphans!' (LXXXIX. 17).

Conscience as a link between the individual and society

Man's image, both as an individual and as a member of a group, is defined by the human and religious concepts, the ideas and opinions, and the principles that govern his life.

These principles must affect his thought and feelings and with them make up a harmonious whole, the hallmark of inner humanity, viz. that of conscience, truth and justice, which brings all these components together so that they are reflected in his actions and produce in him peace of mind, pride and dignity.

Conscience is a psychological propensity to perceive good and evil in actions, combined with the ability to enunciate direct moral judgements on the worth of certain individual actions.

This term also denotes each person's ability to define his position with respect to his behaviour, and to predict the social and moral consequences of that behaviour.

Certainly the reform of morals and education begins with the individual, the basic unit of society; and society is formed in the image of the individual.

Religion therefore concerns itself with man both as an individual and as a social being. It is not content to check and direct his actions, but works on

45. See L. Gardet, 1961, pp. 224–8.

his innermost soul and becomes ingrained in his conscience, where it implants its principles. It acts as a deterrent and an equitable judge, guides man in practical ways and brings him out of his individual shell and into the wide arena of the community, explaining to him the various types of behaviour that conduce to happiness or wretchedness.

This religion, which aroused humanitarian feelings in man, is the voice of truth and conscience that governs man's movements and guides his behaviour.

Islam has conclusively shown that there is a part of the heart whose health determines that of the whole body. This part develops and grows by virtue, truth, equity and goodness in general. If it accepts the imprint of religion it becomes a mighty power that makes the truth shine out. This is what the Qur'ān calls the soul in this verse: 'By the Soul /And the proportion and order /Given to it; /And its enlightenment /As to its wrong /And its right; – /Truly he succeeds /That purifies it, And he fails /That corrupts it' (XCI. 7–10).

The Prophet referred to this part of the heart when he said: 'Piety is there,' pointing three times to his heart. This piety is bound up with intention, which accompanies every action and which Islam has made the goal of every word and deed: 'Deeds are gauged by intentions, and every man will receive as he intended.'

It is also discernment, which makes us discriminate between the right road and the wrong one. Al-Ghazālī considers that: 'There is in discernment and purity of heart a feeling that comes from the conscience.' He quotes the following *ḥadīth*: 'Wrongdoing is that which you harbour within, whatever permissions you have been given.'[46] 'This is a reference to that inner sense to which men turn when they have difficulty in perceiving the truth.'[47]

At all times and places men have consulted their consciences; but the latter do not enunciate a uniform judgement, for what at one time seemed to some to be good at another time seemed to others to be evil. Good intentions are not enough to make action moral. However anxious man may be to do good and find the truth, he may arrive at a completely mistaken perception of good and evil, equity and injustice.

People's consciences cannot upset the criteria of moral values, whether it be equity, good relations with other people, etc. And whatever the apparent differences between fragmentary concepts may be, conscience, when it gives orders to respect equity, is only instructing man to perform a moral action towards his fellow men.

The education of the conscience rests on the acquisition of virtue by habit and constant practice.[48] The happiness of the individual and the cohe-

46. Ibn Ḥanbal, *Musnad*, IV, p. 228, lines 9–10.

47. Z. Mubārak, n.d., p. 149.

48. This is a point that Islam has in common with Christianity: it is based on the Aristotelian theory of virtue as *habitus*, at any rate in theoretical thinking about virtue.

sion of society depend on it. Any flaw in the education of the conscience inevitably ends by hindering human activity and damaging society. Any structure can be destroyed by the introduction of an unassimilable foreign body; and this holds good for the structure of the conscience:

> But when they forgot /The warning they had received /We opened to them the gates /Of all (good) things, /Until, in the midst /Of their enjoyment /Of our gifts, /On a sudden, We called /Them to account, when lo! /They were plunged in despair! /Of the wrong-doers the last /Remnant was cut off (VI. 44–45); 'But whoever changeth /From Faith to Unbelief /Hath strayed without doubt /From the even way (II. 108).

Here unbelief is nothing but the way that is contrary to man and the divine order; and faith is nothing but a recognition of the principles of order and action so that human society may be in perfect harmony with God's creation.

But this way can only be effectively and finally associated with truth by faith, which stands out as a power by the unity and unshakeable cohesion of its structure and ends. It produces in man a unique conscience, which cautions and warns at critical moments when the tendency to stray from the right road becomes strong. Much more again, man makes himself a soul, which blames itself at the first evil thought. It is this blaming soul that God swore by: 'I do call to witness /The Resurrection Day /And I do call to witness /The self-reproaching spirit: /(Eschew Evil)' (LXXV. 1–2).

It is also, in the language of the Qur'ān, the *furqān* (distinction between good and evil): 'O ye who believe! /If ye fear God, /He will grant you a Criterion /(To judge between right and wrong)' (VIII. 29).

Piety is the rope stretched between the conscience and God. Having faith in God, staying true to His teaching, acting according to His commandments and avoiding doing what He has forbidden – all this gives the conscience the ability to preserve itself from straying and the power to repulse evil whatever authority engenders it, and to repent and return to God: 'And those who, /Having done something /To be ashamed of, /Or wronged their own souls, /Earnestly bring God to mind /And ask for forgiveness . . .' (III. 135).

The prescribed acts of worship, which on the face of it only involve the relationship with God, are also aimed at educating the moral and social conscience; this latter makes individuals all live together in harmony derived from a spiritual power, which governs their will and feelings, guides their minds, harmonizes their desires and strengthens the ties of co-operation and solidarity between them. This solidarity founded on religion rooted in the depths of the soul is more advantageous to society than if it stemmed from human laws imposed by force.

The acts of worship in Islam have been prescribed to improve the soul and foster the spirit of equality and the social sense, without any aggressive-

ness. They only achieve their aims if they are free of any flaw. The Qur'ān stresses the fact that religious duties impel man to do good. Prayer, for example, which is the pillar of religion, forbids social offences and all reprehensible actions rejected by sound minds. It must achieve this aim for otherwise it is a false prayer whose originator makes himself liable to divine punishment. The other duties, which all help to produce the complete man and the harmonious, united community, can all be said to be addressed to the conscience of the believer to give him a sense of solidarity with the virtuous society in its virtuous aims.

We observe that religious commandments tend to improve people's hearts, and that if this aim is achieved their social ends can be attained. Social relationships can only be fruitful and lasting if they are warm spiritual relationships, whereas self-seeking relationships dissolve once the hoped-for material advantage has been obtained.[49]

Islam, which defines man's relationship to the universe and to life and assigns the believer the goal to be achieved, fosters in him the conscience which controls the relationship between the soul in charge and the soul that is answerable. If we stress the fact that the individual is the keystone of the social edifice, it is because he is the touchstone of the state of society, for society exists first of all in his conscience. As philosophers and scholars have said since the earliest times, man is naturally and innately a social being and cannot live alone.

Miskawayh even considers that the Arabic word *insān* (person) denotes sociability and co-operativeness, and that this word comes not from *nisyān* (forgetting) but from *ants* (sociable): man is neither wild nor fierce. It is this sociability natural to man that we must eagerly seek to have in our relationships with our fellow men, making every effort not to fail in this. It is the principle underlying all types of love. Men have been encouraged by religious law and good usage to invite each other and take meals together precisely so that this sociability may be strengthened in them. Perhaps even religious law has only enjoined them to come together so as to induce their potential natural sociability to assert itself through action.[50]

Despite this natural tendency to assemblages, man as an individual is responsible for his behaviour before divine law or general moral law; and this is why a balance needs to be maintained between man's individual and social propensities.

49. Abū Zahra, n.d., p. 13.
50. Miskawayh, 1969, pp. 217–18.

Chapter 4

Social thought

Habib Fekih

The role of religion in society

The word 'Islam', which designates the religion, refers not only to acts of worship. Moreover the ideas of monasticism, isolation from the world and asceticism, particularly the asceticism practised by the monastic Sufis, are alien to Islam. Islam is the whole of life. It is both rules and concepts, spiritual direction and temporal direction. It is the religion that has integrated the individual into society, dealt with his problems and stated his rights and duties.

Religion governs people's relationships with each other in all aspects of life, for it is the law of the individual and also of society, the law of local and also of international relationships. Hence its function is to give human life a new and complete image. So it cannot be separated from practical everyday life, with its spiritual and material aspects.

The idea of society is clearly to be seen both in its ritual and in its rules. All the changes introduced by Muslims, whether theologians or laymen, those in authority or ordinary men, and whether done knowingly or out of ignorance, cannot change this in any way. Moreover even on a restrictive interpretation worship cannot be reduced to mere performance of the ritual: for worship is the whole of life subjected to the *shari'a*, which guides it towards God. For this reason every social action, every good deed, is an act of worship. The Prophet states as follows the link between the idea of society and worship as it should be understood: 'He who helps the widow and the needy has as much merit as he who fights in God's way and as he who spends the night in prayer and the day in fasting' (al-Bukhārī, *nafaqāt*, 1; *adab*, 25; Muslim, *zuhd*, 41).

The idea of worship thus covers all human activities. This is what the Prophet pointed out to three men, one of whom had decided to spend every night in prayer, the second to fast all his life and the third to be chaste and celibate to the end of his days. He told them that while fear of God, piety and devotion were part of his *sunna*, the latter enjoined sleep after prayer, break-

fasting after fasting, and marriage; and that those who departed from his *sunna* excluded themselves from it. This proves that faith is not synonymous with asceticism or renunciation. The Prophet disapproved of those who devoted all their time to prayer, leaving it to others to provide them with food and look after their mounts. He regarded it as unacceptable to rely on others for material things in the name of abstinence and austerity.

Let us also consider the example of 'Umar, the second caliph, who did not take piety to mean a tendency to devote oneself exclusively to worship. On the contrary, such behaviour amounted in his view to killing religion by depriving it of all vitality and perverting its ends. 'Umar considered that the true believer was characterized by well-balanced social relationships. By way of proof, take the example of the witness whom he summoned to ask him about a man he knew. The witness started by praising this person, so that 'Umar asked him: 'Are you his nearest neighbour, that you know his habits like that?' 'No', replied the witness. 'So you have been his travelling companion, which enabled you to observe that his morals were beyond reproach?' 'No', replied the man. 'Then it was by having business dealings with him that you were able to satisfy yourself of his honesty?' The man again replied 'No'. 'I see', 'Umar ended, 'that you have certainly seen him in a mosque, mumbling the Qur'ān and rolling his head about.' 'Yes', the man admitted. 'In that case you can go away, for you do not know him at all,' replied 'Umar, and at once told the man to bring him a witness who really knew him.

Lastly, the Qur'ān itself stresses that religion intends man to concern himself with the affairs of this world as well as of the next: 'But seek, with the (wealth) /Which God has bestowed on thee, /The Home of the Hereafter, /Nor forget thy position in this /World' (XXVIII. 77; II. 177).

The standards and morals enunciated in the Qur'ān do not set out to make man a weak creature, content with little, who accepts the affronts of life and does not react against injustice and oppression. On the contrary, it reproves those who accept humiliation and submit to oppression and injustice (IV. 97).

Acceptance of humiliation is alien to religion. It cannot lead to natural relationships based on equity, equality, freedom and dignity. Religion seeks to produce a strong man, who does not accept the flouting of his rights. It exhorts men to assert their rights, even at the cost of their lives: 'Whoever dies defending his property is a martyr' (Ibn Ḥanbal, I, particularly 79, 187 and 188).

Islam's aim being to embrace life as a whole, it assumes an ideal of life which cannot for a moment allow human life not to be in complete harmony with the rules and principles of religion. Consequently Islam does not distinguish between the various problems of life.

The *sunna*, a collection of the Prophet's doings and decisions, gives Muslim society a set of teachings which have served as the basis for laws govern-

ing this society in the minutest details. In this connection, therefore, we speak of 'Islamic community' or 'city of those belonging to the tradition and the community'. Admittedly there is a certain latitude in these laws, to cater for changing times and circumstances; but it is not unlimited, for it is subject to consensus (*ijmā'*).

This leads us to study man himself, for he is the expression of life as a whole. In fact, it is only through man that anything in life has any meaning. He was exalted and honoured by the Lord, who commanded the angels to bow down before him. According to the Qur'ān, the relationship between man and God is embodied in the spirit that the Lord breathed into him as a sign that he emanated from Him. It is in this sense that man was created in God's image.[1]

If man was thus honoured, and the angels bowed down before him, it is because he was created out of the spirit of God: man emanates from the eternal source of life.[2]

As regards man's mortal or eternal character, it has been said that death is separation of the spirit from the body, and the Qur'ān speaks of natural or violent death. Nevertheless many divine or other *ḥadīths* speak of man's eternal nature, for instance: 'O son of Adam, I have created you for eternal life . . . /O son of Adam, obey Me and I will make you, like Me, immortal . . . / I have created you to live for ever, moving only from one world to another. . . .'[3]

In all human traditions in general, and the Islamic tradition in particular, theologians stress that man is the centre of creation and that his image is its referent and original cause. The human person is at once God's witness and His vicar.[4]

For all that, we must not forget that the Qur'ān states that man owes his existence to God. He was created from earth or clay and a base liquid. He must not, therefore, exalt himself above his station to the point of claiming to be the equal of God.

It is because man was created from mud that the Qur'ān, anxious to protect him from vanity and foreseeable pride, reminds him of the humbleness of his bodily origin and describes in detail the creation and formation of the individual: 'Man We did create /From a quintessence (of clay); /Then We placed him /As (a drop of) sperm /In a place of rest, /Firmly fixed; /Then We

1. See al-Ghazālī, 1964*a*, pp. 52–4. He regards man's essence as a light of divine origin. Most Hellenistic philosophers consider that there is a divine, eternal element in man, but do not compare man with God. The only thinkers to go so far are the supporters of existential monism, of the theory of union and incarnation.
2. Ikhwān al-Safā', *Rasā'il*, II, p. 343.
3. *Ibid.*, III, p. 39; IV, p. 34.
4. *Ibid.*, IV, p. 12.

made the sperm /Into a clot of congealed blood; /Then, of that clot, We made /A (foetus) lump; then We /Made out of that lump /Bones and clothed the bones /With flesh; then We developed /Out of it another creature' (XXIII. 12–14).

Moreover man could not overcome the obstacles, resolve the problems or prevail over the vicissitudes of life without the will and help of God.[5] Humble in body, man is noble in the spirit God has breathed into him. It is by the spirit that man is distinguished from the rest of creation, so that some theologians, regarding it as the foundation of life and the aim of creation, have made it the source of reason and of the faculty of understanding reality.[6] Hence man is superior to the animals by virtue of the spirit, which is both speech and understanding. If he does not use it by availing himself of his senses, such as sight and hearing, he falls even lower than them: 'Many are the Jinns and men /We have made for Hell: /They have hearts wherewith they /Understand not, eyes wherewith /They see not, and ears wherewith /They hear not. They are /Like cattle – nay more /Misguided: for they /Are heedless (of warning)' (VII. 179; XXV. 44).

Hence we can say that reason (the soul) is in truth man. It is by it that man is defined, his body being regarded as merely a vessel for this essential feature.[7]

It is by virtue of this faculty that man is capable of behaving rationally, showing judgement, taking decisions and exercising moral choice. It is the spirit that makes man worthy of steadfastness, and it is because of it that God made man his vicar on earth, honouring him and distinguishing him from among all others: 'We have honoured the sons /Of Adam' (XVII. 70).

Man as an individual and as a social being

Thinkers have always defined man as a social being, and that is how the revealed religions see him.

Moreover, the first human being God created was not alone. God gave him a companion so that they could both comfort one another: this companion was his other half, his wife, his mistress, his Eve:[8] 'It is He Who created /You from a single person /And made his mate /Of like nature, in order /That he might dwell with her /(In love)' (VII. 189).

5. Al-Ghazālī, *Iḥyā'*, III, p. 58.
6. Al-Ghazālī, 1964*b*, p. 210.
7. Ikhwān al-Ṣafā', *Rasā'il*, III, pp. 371–88. This opinion is shared by the Hellenistic philosophers.
8. See al-Shaykh al-Ṣadūq, 1963, p. 16: the word *nisā'* (women) comes from the verb *anisa*, meaning 'to keep (someone) company'. See also the etymological explanation given by Shī'ites, viz. that the generic term *insān* (human being) comes from the verb *anisa*, for in a sense men supposedly keep God company.

Thus Adam, man, is certainly a social being. According to some traditions, God took the one who was going to be Adam's companion from his own side so that he should not live alone and should start his life as a social being.

Some consider that it is because he is weak that man is naturally a civilized social being: he needs to live with, by and for others.

In order to preserve the stability of the social structure in the face of everything that might threaten its cohesion, Islam has set out to eradicate selfishness by ascribing it to the Devil. It has made it the symbol of disobedience and one of the gravest sins, covering arrogance, conceit, the rejection of the other and a determination to exert a hold over one's fellow men.

Living with other people is one of the essentials of human existence, and it is society that tempers the inclinations of the individual and improves him: 'For man was created /Weak (in flesh)' (IV. 28).

In any case, even when the self is dominant, the feeling of existing to the exclusion of others is in itself a sort of coexistence with others, as Heidegger says.[9]

The Qur'ān and the *sunna* with one voice condemn selfishness and individualism:

> The best among you is he who is most beneficial to others. Human beings are the children of God and the best-loved by Him is he who is most beneficial to His children. The believers together are like the timbers of a building, each supporting and consolidating the other. Believers in their friendship and fraternity are a likeness for the body where if one organ aches, the whole frame is racked with fever and sleeplessness (Ibn Ḥanbal, IV, 274).

The Qur'ān says: 'O mankind! /We created /You from a single (pair) /Of a male and a female, /And made you into /Nations and tribes, that /Ye may know each other' (XLIX. 13).

The idea of law and legislation no doubt goes back to the first human groups. It is probably as old as people's wish to come together. After all, outside the group all legislation loses its purpose.

Man needs mutual help: but mutual help can exist only within a group. Man has a natural sense of group living, for he knows in his innermost being that he represents the whole of mankind, like Adam who represents humanity as a whole. This is why the Qur'ān describes Abraham, who is an individual, as a nation and a group: 'Abraham was indeed a model' (XVI. 120). In this sense the imam is he who musters his disciples: 'One day We shall call /Together all human beings /With their (respective) imams' (XVII. 71).

9. Z. Ibrāhīm, 1959, p. 203.

It is because it emphasizes man's social nature that the Qur'ān prescribes a set of laws and regulations for him, so that in the context of his relationships with others he may become a social being.

Individualism needs neither laws nor regulations. It bears within itself the seeds of destruction. By contrast, communal life has an element of permanence. This is why the Brethren of Purity (Ikhwān al-Ṣafā') and other Muslim thinkers consider that the concept of eternity, so far as man is concerned, rests on the uniqueness of human nature and not on the individual.[10]

Abraham's importance certainly lies in the fact that he transmits to future generations an idea or set of ideas that unify religious thought and set the course of eternity and happiness.

We must remember, however, that thinkers do not agree about the meaning of happiness, and especially about the question whether happiness is achieved at an individual or a collective level.

True happiness is achieved when the soul is fully satisfied with the good it dispenses; others see it as pleasure or the absence of pain; hence pleasure is the yardstick for actions. Others think that happiness is admission to paradise, obtained by complying with the injunctions and eschewing the prohibitions, in other words by faith and praiseworthy behaviour in the sphere of morals.

For al-Fārābī the supreme happiness is reached by emancipating the soul from material shackles and constraints. In this way the soul reaches a state of pure spirit independent of matter. It arrives there by both intellectual and physical actions.[11] The Brethren of Purity, for their part, regard happiness as total liberation from matter, so that man becomes pure spirit.[12]

Be that as it may, all the varied definitions of happiness are necessarily based on compliance with the injunctions and rejection of the prohibitions. In other words, they are the expression of faith.

The other difference, as we have said, is about whether happiness is collective or individual: and on this there are as many opinions as there are schools of thought. Greek philosophers considered that happiness is collective, for it results from coming together and mutual help, and cannot exist without them. 'The city in which people associate to do things that lead to true happiness is the

10. See the theories of the Hellenistic philosophers, who maintain that diversity, complexity and fragmentation are qualities of matter, and hence characterize the material world (which is doomed to corruption), whereas simplicity and unity characterize the world of the intellect, and are the foundation of permanence and eternity. Moreover in al-Fārābī's *Kitāb al-Milla*, 1968, p. 90, we find the following passage: 'It is by wisdom that I manage to identify myself with the divine elements and the heavenly bodies.'
11. N. Takrītī, 1979, p. 194.
12. According to al-'Āmirī, happiness is achieved when man perfects his intellect through knowledge and learning: he thus attains serenity, and his heart fills with love and joy; see *ibid.*, p. 31.

virtuous city. The nation in which all the cities help one another in order to attain happiness is the virtuous nation. By the same token the earth is virtuous if all the nations that people it help one another to attain happiness.'[13]

So al-Fārābī considers that happiness stems from mutual help, whether it be between the people of a town or the citizens of a nation, or again between the nations themselves, the aim in every case being the common good.

Given that man is by nature a social being, he cannot blossom out in isolation, without the help of others. In this sense life in society is a way of achieving fulfilment. It is life in society that enables the individual to attain the happiness to which he aspires.[14] Man cannot attain any form of fulfilment alone. For that he needs the help of a great many of his fellows. Every man is naturally inclined to associate in his quest with one or more other men. Given that mutual help is necessary, man is defined as a social or civilized being.[15]

According to the Brethren of Purity, virtues are so numerous and good deeds so varied that they cannot be combined in a single individual: it is only in a crowd that they are found together.[16] They also consider that men are divided into classes: the élite and the common herd, with various classes between the two, and they must all help one another to attain happiness.[17]

From Islam's point of view, true happiness consists of reaching a balance in man's life between material propensities and spiritual aspirations, between individual human rights and obligations to the group, and respect for the links between man on the one hand and life and the universe on the other. 'The revealed law regulated everything, and left no action of the believer neutral: it divided his behaviour, his relationships with others, and his conduct both within and outside Muslim society.'[18]

Islam is thus the law of the individual and of society. It governs relationships between the smallest groups and between the widest societies. All the sources of Islamic law, viz. the Qur'ān, the *sunna* and *fiqh* (jurisprudence) emphasize the need to strengthen the ties between members of society, and call for dissension and conflict to be put aside.

The emphasis is on coming together, unity and the rejection of everything divisive: 'God's hand is with the community' (al-Tirmidhī, *fitan*, 7; al-Nasā'ī, *taḥrīm*, 6); 'No one from amongst you is a believer till he desires for his brother what he desires for himself' (Muslim, *īmān*, 71; al-Bukhārī, *īmān*, 7; al-Nasā'ī, *īmān*, 19; al-Tirmidhī, *qiyāma*, 59). These injunctions and laws which govern Islamic society and weave ties of friendship and love be-

13. Al-Fārābī, 1959, p. 78; 1968, pp. 52–3.
14. Al-Fārābī, 1926, p. 14.
15. *Ibid.*
16. Ikhwān al-Ṣafā', *Rasā'il*, I, p. 357.
17. *Ibid.*, p. 356.
18. M. Boisard, 1980, p. 59.

tween its members recur in many verses of the Qur'ān which speak of the common origin of all men: 'O mankind! reverence /Your Guardian–Lord /Who created you /From a single Person' (IV. 1).

The Qur'ān also stresses that all men make up a single nation: 'Mankind was one single nation' (II. 213); 'Verily, this Brotherhood /Of yours is a single Brotherhood' (XXI. 92). Life in a group within the framework of a moral system is a necessary condition for human responsibility: 'Ye are the best /Of peoples, evolved /For mankind /Enjoining what is right, /Forbidding what is wrong, /And believing in God' (III. 110; XLIX. 10).

The Prophet said in this connection: 'Neither meddle or spy, neither shun nor conspire, but be ye all men of God as brothers' (Ibn Ḥanbal, II, 465, 470, 492, 517, 539).

All these texts advocate pure and fraternal relationships between the members of society. This Islamic fraternity is in fact the basis of relationships between individuals. The following *ḥadīth* expresses a real sense of security and serenity: 'God has forbidden the believer his blood, his money, his property or any ill will against him.'[19]

In his *Iḥyā' 'ulum al-dīn* [The Revival of the Sciences of Religion],[20] al-Ghazālī sets out a set of rules and recommendations for choosing brothers and consorting with friends, for if genuinely loving, friendly and affectionate relationships are established between people, this makes possible the building of a healthy society and a harmonious nation.

Al-Ghazālī considers that commercial transactions must fulfil the following seven conditions: they must be consistent with good morals; they must be regarded as a community obligation; they must not contravene a religious duty; the name of God must be mentioned in the bargain; he who carries out the transaction must not be unduly grasping for profit; he must not only eschew what is forbidden but also keep clear of anything suspect or liable to give rise to confusion; and he must check the way his transactions are carried out.

Al-Ghazālī's aim is to combine theoretical and practical morals; he defines man's responsibilities and urges him to make life part and parcel of the exercise of piety.[21] He considers that the foundations of society can be shaken and its structure even collapse because of the activities of certain indi-

19. Al-Ghazālī, *Iḥyā'*, II, p. 177; al-Māwardī, 1986, p. 175. In this connection the same book gives quotations from the early Companions of the Prophet, in particular 'Umar and 'Alī.

20. Al-Ghazālī, *Iḥyā'*, I, pp. 180ff. See also Ikhwān al-Ṣafā', *Rasā'il*, which contains chapters on the question of friends (IV, p. 43) and how to choose one's brothers (IV, p. 45). Good morals and the company of friends are even regarded as components of happiness (IV, p. 43).

21. Al-Qāsimī, n.d., p. 124.

viduals, who give every appearance of virtue and seek to spread it, but under the impulsion of hypocrisy, arrogance and pride.[22]

Thus religious duties contribute not only to forming the personality of Muslims but also to maintaining the cohesion of the community. They consolidate relationships between its members, for the religious law is based on the assemblage and the group. This is particularly true of the duty of prayer: the collective performance of this obligation is regarded as twenty-seven times more meritorious than its individual performance. A number of *hadiths* stress the superiority of collective over individual practices.[23] Others emphasize the special place of Friday in reminding believers that they must come together on that day to perform their religious duties.[24]

Man as a social being and the birth of the nation

This practice of coming together, initially in the mosques, to say prayers, in time of war or for the announcement of news, no doubt underlies the cultural and religious traditions on which Muslim civilization and society are based. This society encompasses the whole of humanity, since the latter stems from the same origin. With the new religion a new awareness thus appeared, and led to the creation of a special entity that brought believers together around the faith. The latter lit up their path and guided them on the right road, that of the word of God which prevented them from straying. This idea, the forerunner of Islam, was that of the *umma* (community or nation).

This concept was not confined to any one group, but embraced all those who professed the religion; it was the bond that united the members of Islamic society: 'Ye are the best /Of peoples, evolved /For mankind, /Enjoining what is right /Forbidding what is wrong /And believing in God' (III. 110).

Before Islam the prevailing feeling among the Arabs was that of belonging to a tribe. The idea of a people or nation was non-existent among them. It was with the advent of Islam that the Arabs moved from the tribal bedouin condition to that of citizens making up a nation. Islam established this nation on a religious basis: 'The Religion before God /Is Islam (submission to His Will)' (III. 19; III. 85).

As mentioned above, the religion aims to form a cohesive, homogeneous society, and its teachings strengthen this homogeneity and the sense of belonging to a structured group. It is in this balanced, homogeneous assemblage that man finds his true place: and this entails rights and obligations for him towards himself, the family that he maintains and the society

22. Al-Ghazālī, *Iḥyā'*, I, p. 45.
23. *Ibid.*, I, p. 148.
24. *Ibid.*, I, p. 179; Miskawayh, 1969, pp. 217–19.

to which he belongs. All racial discrimination between Muslims, whatever their tribe or race, was eliminated, for God said: 'Believers are brothers.' The Prophet confirmed this position. He went further and finally buried every vestige of tribal spirit: 'Whoever advocates tribalism, wages war by tribalism or dies for tribalism is not one of us' (Abū Dāwūd, *adab*, 112). Addressing those of his own clan, the Prophet put them on the same footing as others: 'O people of Hashim, on the Day of the Last Judgement, when men give an account of their actions, do not come priding yourselves on your lineage. I shall only intercede for you to the extent that you have done good.' To his daughter he said: 'Fāṭima, I shall be of no help to you in the eyes of God . . . ' (al-Nasā'ī, *waṣāya*, 6; al-Bukhārī, *waṣāya*, 11). The members of this nation are thus equal. No distinction is made between them on the basis of birth, colour, language or religion. Not only does Islam not recognize either these distinctions or even the geographic barriers erected between peoples, which give rise to exaggerated nationalism, but it considers the territories over which it extends as the homeland of all Muslims. It even considers that all human beings, and especially believers, are the vicars of God on earth, and that it is incumbent on them to people it and exploit its riches. Those who make up this nation are all brothers, but they only enjoy God's mercy and help if they help one another, love one another and understand one another. In the same sense is the *ḥadīth* addressed to all people, Muslims and non-Muslims: 'Be merciful to those on earth and heaven will be merciful to you' (Ibn Ḥanbal, II, 160). It is because people come together, help one another and love one another that they are one nation. This idea that the whole human race is assembled in one single homeland, within the ethical limits already mentioned, is Islam.

This citizenship that every individual enjoys is based not so much on a set of rights as on a sense of security, peace and freedom. However many states there may be, the Muslim, wherever he goes, even beyond his frontiers, will feel at home. This feeling flows not from positive laws but from Islam. But the fragmentation and division and the legal processes undergone by Islamic society have put the Muslim in a new situation. Except in his country of birth or chosen residence, he is now deprived of the right to this citizenship and the rights and obligations that flow from it. Everywhere else he has become a foreigner, even in a Muslim country.

Citizenship is open both to Muslims and to non-Muslims, for Islam is directed to all men (XXXIV. 28).

Islam's relationship to the non-Muslim is still governed by humanist principles. Indeed, once a non-Muslim fulfils the obligations required for citizenship, nothing distinguishes him from a Muslim. Likewise, nothing can justify the slightest hostility towards non-Muslims, unless they are guilty of transgressing against God and His Prophet and offend them gravely. The Qur'ān provides that all those who have lived with the poor and have treated

them well and not contended with them should be treated with kindness and equity (LX. 8–9).

Islam sought only to foster the best of relationships between members of the nation, requiring its adherents to be gentle in their speech and not show arrogance, for arrogance leads to bitterness and spoils relationships. Recourse to war is allowed only to spread the word of God, repulse aggression or as a protection against those who do not keep their word: 'Fight in the cause of God /Those who fight you, /But do not transgress limits/ For God loveth not transgressors' (II. 190; IV. 75).

From the moment that such a nation was founded, on the basis of religious relationships and essentially divine ties, its members were committed to preserving the new entity. The first duty was therefore to strengthen the cohesion between the components of the nation and avoid all divisions. The punishment reserved for those who left the group was severe: 'Kill those who come and command you but whose intention is to break your ranks and divide you.' In practice, to move on to the fringe of one's group meant excluding oneself from Islam. 'He who withdraws from the community by as much as a span removes the knot of Islam from his neck' (Ibn Ḥanbal, V, 180). This clearly shows that in Islam consensus is one of the basic principles that preserve the life of the nation, ensure its cohesion and foster equality and justice within it. Though it is a legislative principle, it is not confined to that sphere, but is regarded as one of the fundamentals of politics in Islam, for it implies mutual aid and collective action.[25] This principle expresses the general will, which sees to it that the religious laws are enforced and is always alert to spot any who infringe them or depart from them.

The responsibilities of the nation are carried by all its members. Any damage, even slight, inflicted on it by one of them may turn into general damage and bring about the collapse of the structure and the destruction of its foundations. In al-Fārābī's words: 'Some administrators of cities consider that any offence committed in their city recoils on the whole of its population.'[26] So Islam reserves an exemplary punishment for those who expose these foundations to the risk of destruction. The Qur'ān moreover stresses that any partial infringement of the law and any partial injustice rank as a general infringement and injustice (V. 32).

Ibn Tamiyya ascribes a very heavy responsibility to those who endanger the Islamic community or transgress the divine precepts that are its foundation: 'A man who gives asylum to a brigand, a thief or a murderer, in a word to anyone subject to a legal penalty or indebted to God or one of his fellow men, and so shields him from the operation of the law, thereby makes himself

25. Ibn al-Qayyim al-Jawziyya, 1969, I, p. 30.
26. Al-Fārābī, 1971, p. 73.

his accomplice. He exposes himself to the curse of God and His Prophet.' Muslim reports in his *sahih*, according to 'Alī Ibn Abī Ṭālib, that the Prophet said: 'May God curse the man who commits an illicit action, and the man who shelters him.'[27]

To preserve the equilibrium, stability and cohesion of the nation and define the responsibilities of each of its members, regardless of their rank or condition, Islam requires observance of a second basic principle, to command what is good and forbid what is reprehensible. This principle clearly shows the relationships between members of the nation, and also the value of the Islamic group and the level of its civilization, thought and belief. The Qur'ān, supported by the *sunna*, exhorts Muslims to apply this principle, seeing in it one of the pillars of the faith. A society that does not observe it, moreover, becomes unbelieving and damages its foundations (V. 78–79).

If the Qur'ān repeatedly says that people must 'command what is good and forbid what is reprehensible', it is because this principle is essential to any coexistence worthy of the name, to collective action and to mutual help. The *sunna* for its part leaves no doubt as to the compulsory nature of this principle, as shown by the *hadith*: 'Command what is good and forbid what is reprehensible, or God will curse you and skin you as I have skinned this stick' (Ibn Ḥanbal, V, 391). Every member of the Islamic nation, anxious to comply with this religious duty, must therefore implement this principle whenever circumstance requires it. 'Observe the rules,' the Prophet said. 'What rules?' someone asked. 'Lower the eyes, refrain from causing hurt, command what is good and forbid what is reprehensible' (al-Bukhārī, *mazālim*, 22; Abū Dāwūd, *adab*, 12).

Thus Ibn Taymiyya declares that: 'The prosperity of a country and its people depends on the obedience shown to God and His Prophet. This obedience is only possible if people command what is good and forbid what is reprehensible. This is just why this community is the best of all that have come into being.'[28]

The Brethren of Purity define good as that which has been sanctioned by usage and has not been forbidden either by Muslim law or by the *sunna*: and they regard as reprehensible whatever has not been sanctioned as customary either by the law or by the *sunna*.[29] Al-Jurjānī considers that good is whatever is fitting in the eyes of the law and evil is all words and actions unacceptable to God.[30] This is why relationships and coexistence with others is based on collective action, mutual help and the feeling of a common interest. It is in this sense that good advice is an obligation towards God, His Prophet, the Imam of Muslims and the Muslim community in general. The religion thus

27. Ibn Taymiyya, 1969, p. 91.
28. *Ibid.*, p. 74.
29. Ikhwān al-Ṣafā', *Rasā'il*, III, p. 392.
30. Al-Jurjānī, *Ta'rifat*.

rejects the isolationism of those who invoke the following verse: 'Guard your own souls /If ye follow (right) guidance /No hurt can come to you /From those who stray' (V. 105), taking it to mean that everyone should concern himself with his own affairs and not meddle in other people's. Such an interpretation would lead to the annihilation of the nation. It is inconsistent with the following *hadīth* of the Prophet: 'Those who see a reprehensible act and fail to correct it lay themselves open to divine punishment.'

Hence it is essential to resist any reprehensible act as soon as it is recognized: 'An act of disobedience that is hidden harms only him who commits it, but if it is potent and is not checked, it harms the community.'[31] Since Islam does not dissociate an individual's responsibility from that of society, the latter suffers the consequences of actions liable to bring about the collapse of society as a human institution. Actions by man as a social being or by a human group must always be an expression of faith, as though they were the performance of ritual. Now these actions are bound to be conscious and deliberate. In other words, every deed and action is an expression of responsibility, and this responsibility implies an independent will and a freedom of judgement and thought supported by divine guidance and in accordance with the teachings of the Revelation and of morality.

Even when moral principles and laws emanate from God's will, they do not set out to constrain human nature or suppress the faculties that make man aware of his identity. On the contrary, they are completely in harmony with the essence of man as an individual and as a group. Their aim is not to shackle him, but to liberate him and help him play his role to the full and be active in a dynamic and stimulating way. The same is true of punishments, which have only been enacted to deter people from reprehensible actions and compel them to behave in a manner dictated by fraternity, understanding and love, without harming anyone. The Supreme Lawgiver enacted the *ḥudūd* not in a spirit of domination or revenge but in order to promote life (II. 179).

For this reason He forbade any immoderation or spirit of revenge in the carrying out of punishments: 'When you fight, do not aim for the face, and do not strike in the vitals.'[32] According to Ibn Taymiyya, when a master is led to punish a pupil, he must be guided by a wish to reform and improve. The relationship is exactly the same as that between a father and his son: to spare the rod means spoiling the child.[33]

31. Ibn Taymiyya, *op. cit.*, p. 124.
32. *Ibid.*, p. 117.
33. *Ibid.*

Social questions and the development of *fiqh*

But this divine guidance addressed to the human conscience did not remain a mere recommendation[34] in which men would find a call to guide their lives. Once the first generations of Muslims had passed away, new problems arose, especially with the conversion of peoples of differing cultural backgrounds; the *sunna* was therefore put down in writing and arranged in accordance with the various branches of the law. All the obligations imposed by the religious law were codified. The revealed texts, after all, dealt with specific and often occasional cases, whereas everyday life throws up a variety of cases and problems.[35] The legislators had to find new sources of law, which were recognized by most of the jurists, namely consensus and personal interpretation (*ijtihād*). All these sources were intended to preserve the primacy of human society. Thus there emerged Mālik's idea of the general interest (*al-maṣāliḥ al-mursala*), Abū Ḥanīfa's of personal appreciation (*istiḥsān*), al-Shāfi'ī's of *istiṣḥāb* (presumption of continuity), the concept of customary law (*'urf*), and so on. The purpose of laws is to put man in the real dynamics of life, justly and fairly, in harmony with all the factors in the environment and without disrupting the life of the community. The courageous and clearsighted laws enacted by 'Umar were intended to diversify the sources of law so as to adapt the religion to every circumstance and make it more accessible to those who converted to it. Hence it is not surprising that Ibn Taymiyya should have called his book *al-Siyāsa al-shar'iyya*, for it deals with the links between the individual and the family, the Islamic community and the state, and sets out his rights and obligations.

Muslim legislation has always been drawn up on the basis of morality, the foundation of all actions, and never for the benefit of particular classes or groups but for the common good. It is founded on human nature and on the ideal, which is the end of human activity. The 'best community' (III. 110) is the nation protected from error because collected together. Ibn al-Qayyim al-Jawziyya's book *I'lām al-muwaqqi'īn*, a real legal encyclopedia, is alone enough to prove that legislation has been drawn up on the basis of morality. Laws are indissociable from human nature, and legislation is based on morality, since intention takes precedence over words. Intention is the very spirit of action – in contracts, in the performance of acts of worship, and in respect for the law. It drives out injustice and exposes the unjust.

The overriding principle in interpersonal relations is 'Do no evil, and do not return evil for evil'; this implies that men are equal before the law. Thus the legal stratagems (*ḥiyal*) that people employ to deny a right or evade a legal

34. Ḥ. Barakāt, 1984, p. 256.
35. See al-Shahrastānī, 1986, I, p. 569; Ibn Khaldūn, *al-Muqaddima*, n.d., p. 445.

obligation make life a deception and a fraud.[36] Religion stresses purity of soul and of intention.

The law (*shari'a*) is the general interest, for:

> it aims essentially to judge according to the interest of men, in this world and the next. It is but equity and compassion, common good and wisdom. Anything that favours injustice rather than justice, indifference rather than compassion, corruption rather than the general interest or triviality rather than wisdom has nothing to do with the law. The law is God's justice between His servants, and His compassion towards His creatures. The protection it affords the world and its wisdom are evidence of His presence and of the truthfulness of His Prophet.[37]

This principle has been observed since the earliest days of the Islamic message. Thus the Prophet forbade the amputation of the hands of thieves during military expeditions, and the enforcement of the *hudūd* in enemy territory: thus the *hadd* was not applied to Abū Mahjin, who drank some wine while raiding with Sa'd Ibn Abī Waqqāṣ. Similarly, when a man confessed to the crime of adultery, the Prophet did not sentence him to the prescribed punishment:[38] the sincerity of his repentance convinced the Prophet, who regarded him as a pure and upright man. Likewise in a famine year 'Umar suspended the punishment of amputation for theft,[39] and went as far as to order the needy to be fed free during famines.[40] Later, legal scholars came to regard the idea of the general interest as one of the pillars of the law, though without prejudice to the *shari'a* or to the *hudūd*. After all, the only important thing in judging and sentencing is to understand the ends of the law. The wisdom that informs the *hudūd*, talion and the other punishments is summed up in the Qur'ānic verse: 'In the Law of Equality /There is (saving of) life' (II. 179). To quote Ibn al-Qayyim again: 'Punishments stop people yielding to the temptation of injustice. This is because they are content with what the Creator has given them, and do not seek to usurp other people's rights.'[41] Islam did not intend people to be able to destroy social relationships by doing wrong to others, whether by defrauding them, stealing their property or killing them, or by violating God's precepts. It therefore laid down punishments, graded according to the offence or crime, for every transgression against God's precepts or other people's interests.

Thus, according to Ibn al-Qayyim al-Jawziyya, the jurists devoted particular attention to the relationship between man and his Creator. Thus they

36. Ibn al-Qayyim al-Jawziyya, *op. cit.*, III, pp. 313, 52.
37. *Ibid.*, p. 5.
38. *Ibid.*, p. 11.
39. *Ibid.*, pp. 13–14.
40. *Ibid.*, p. 15.
41. *Ibid.*

studied the problem of the prescribed acts of worship, both those performed individually such as prayer and fasting (though we tend to think that all duties and obligations play a practical role in the life of a believer, especially those that link him with society) and also those performed collectively such as the pilgrimage and the giving of alms. They also concerned themselves with relationships between man and man, laying down rules about the call (i.e. the *jihād*), the family (marriage, divorce, descent and succession), and transactions such as selling and renting. Lastly, they laid down the punishments for crimes, namely the *qiṣāṣ* and the *ḥudūd*.

All these rules are derived from the Qur'ān: they have been elaborated and enunciated by the *sunna* and developed in their smallest details by the jurists, who for this purpose based themselves on the law of necessity,[42] which allows provision to be made for a certain number of exceptional or provisional cases in which obligations may be pretermitted or prohibited things done. Another rule, applied by al-Shāfi'i, allows for the rules to be varied according to the period.[43]

Thus *fiqh* regulated the life of the individual and laid down his rights and obligations. It organized and developed the Islamic group around the individual, and in the end based the nation on him, entrusting to him the administration of its affairs. The individual is responsible in the eyes of God for his family, the various institutions and the nation, for the *shari'a* is binding on all. Every believer is the vicar of God on earth, and those in power must exercise it according to divine law. They are the servants of the community and manage its affairs, commanding what is good and forbidding what is reprehensible.[44] The caliphate, i.e. the exercise of power, consists of perfecting people's religion and everything in their lives that is related to religion. This responsibility is divided into two fields: the just distribution of wealth (*qasm al-amwāl*) and the enforcement of the punishments prescribed by the law (*iqāmat al-ḥudūd*).[45] Rulers and governors are appointed to apply God's religion in accordance with equity, which is the cornerstone of the ethical–legal system of Islam, as shown by the saying: 'A day of justice, they say, is better for a prince than sixty years of worship.'[46] Should an imam show himself tyrannical or unjust, or alter one of God's precepts, then he should no longer be obeyed, for no obedience is due to one who disobeys his Creator. Should those in charge of the treasury or others responsible for the money and property of Muslims misappropriate part of the funds entrusted to them, it is the duty of a just governor to retrieve the

42. Al-Zarqā', in Khalf Allah, 1962, p. 158.
43. Ḥubb Allāh, *ibid.*, p. 38.
44. Ibn Taymiyya, *op. cit.*, p. 73.
45. *Ibid.*, p. 24.
46. *Ibid.*

sums thus misappropriated and any presents and bribes received by the officials. There is a tradition: 'Gifts received by officials are shackles.' Moreover the giving of presents to governors is unlawful.[47]

On this basis, jurisprudence concerned itself with all aspects of human life, so that it developed in response to differences in time and place. It considers that dogma is not confined to spiritual questions and ethical injunctions, but transcends this realm and inspires legislation governing all interpersonal relationships within society. This social role shows even in acts of worship, and is evident in all the fields that we have covered and that are mentioned in the Qur'ān and set out in the *sunna*. Hence the dogma has been codified in laws, which it has inspired through *ijmā'*, *ijtihād* and other methods. This demonstrates that jurisprudence evolves with society and adapts itself to it, on the understanding that this evolution remains in conformity with God's precepts and the interests of human beings.

In Islamic legislation the idea of the general interest (*maṣlaḥa 'āmma*) takes priority over all other considerations. In case of a clash of interests, precedence must be given to the most important.[48]

Evidence of this is the conduct of the Prophet himself: in applying the rules, he always had regard for necessity, the dignity of the individual and the improvement of the latter. Hence whenever this goal can be achieved without causing any harm, tolerance must be shown. But this by no means implies abolishing or suspending the provisions in force. When an action is not covered by any existing provision, one must be sought that is applicable, as has been done in practice.

Those who subscribe to the idea of the general interest rely on a *ḥadīth* of the Prophet of which two versions are known: 'Do no evil, and do not return evil for evil,' and 'Do no more evil to others than they have done to you' (Ibn Māja, al-Dārquṭnī and Mālik: one of the forty *ḥadīths* collected by Nawāwī). Many verses in the Qur'ān stress this basic role in the field of legislation: '(He has) /Imposed no difficulties on you /In religion' (XXII. 78); 'God doth not wish /To place you in a /Difficulty' (V. 6; II. 185; IV. 28).

Thus the general interest is the basis of divine law, so that some jurists such as al-Ṭūfī have put it above the letter of the texts and above *ijmā'*.[49]

These sources of the law govern the life of believers, starting with the family, the basic unit of society, founded on lawful wedlock: *fiqh* lays down the rights of each spouse in every sphere, e.g. marriage ties, free disposal of property by each spouse, prohibition on infringing the rights of the other spouse. It governs polygamy, when appropriate, and subjects it to conditions.

47. *Ibid.*, pp. 45–7.
48. *Ibid.*, p. 49. One of the legal scholars to give the general interest priority over the letter of the texts was Najm al-Dīn al-Ṭūfī (d. 726/1316). See M. Zayd, 1964.
49. M. Zayd, *op. cit.*, p. 117.

It also regulates divorce and separation, which were regarded as lawful but reprehensible, and also questions of succession and the disposal of *de cujus* property.[50]

All these rules are inspired by ethical considerations, a concern for equality and a desire to avoid anyone being harmed.

Fiqh also set out to regulate trading relationships in detail (this consequently constitutes one of the most important branches of *fiqh*), in order to protect everyone's rights against any risk of fraud or prejudice. Thus every individual's responsibilities were defined, as were his rights and obligations.

Fiqh also defined the functions of judges, and laid on them a duty of fairness in the exercise of these functions, providing for severe punishment for judges who fell short of this duty. It also settled the relationship of Muslims to the government, and defined the obligations of both parties; a governor, for his part, must implement the divine precepts and preserve them from all change, while at the same time protecting the rights of the governed. The latter, in return, must advise their imam and obey him so long as he complies with divine law and does not harm their interests. Just as they have duties, they also have rights deriving from membership of the nation and the state: viz. the right to life, dignity, freedom of belief, political freedom, the right to work, education and research, freedom of opinion and so on. All these freedoms are protected by Islam by virtue of the Qur'ān, the *sunna*, *ijtihād* and the general principle that people must command what is good and forbid what is reprehensible. Moreover the degree of freedom makes clear the extent to which this principle is applied.

In addition to the rules it lays down on the subject of finance, ownership and the economy, and mindful of the balance to be struck as regards the vital question of work, *fiqh* exhorts people to work, to earn their living and not to depend on others for a livelihood, for their dignity is at stake. Everyone must earn his livelihood by legitimate work. We have already quoted the *ḥadīth* in which the Prophet rebuked a man who relied on others for the subsistence of his family and livestock, being too busy with his devotions; but there are others again, such as: 'The best profit is that which you earn with your own hands' (Ibn Ḥanbal, II, 334, 357), which equate a man who provides for the needs of his family, the poor and widows with a man who fights for God or a man who spends his nights in prayer and his days in fasting.

All compulsory actions for society represented by community duties (*furūḍ kifāya*) in fact become personal duties (*furūḍ 'ayn*) if society does not perform them. In the eyes of religion, every action is an act of worship. Since every act of worship requires intention and sincerity, a man who acts and performs an act of worship must have a pure intention, show himself sincere to-

50. See J.-D. Luciani, 1890.

wards God, and serve the interests of the Islamic community to the best of his ability. The Prophet said: 'None of you is a believer unless he loves what only God loves' (Ibn Ḥajar, *Fatḥ al-bārī*, Vol. X, p. 463), and: 'All men are in God's care, and those he loves the most are those who are most useful to their neighbours' (al-Ghazālī, *Kitāb al-Arba'īn*, p. 58).

This is why in Arabic the term *ṣadaqa*, meaning a gift made in order to purify oneself and obtain payment, associates the action with sincerity towards God. Many *ḥadīths* illustrate these various aspects of *ṣadaqa*. Thus the Prophet said to Abū Dharr: 'Emptying your bucket into your brother's bucket is charity; exhorting your neighbour to perform virtuous actions and refrain from evil is charity. Smiling to your brother is charity. Clearing stones, thorns and other obstacles from the road is charity. Putting a lost man back on the right road is charity' (al-Tirmidhī, *birr*, 26).

Love of a job well done is a mark of sincerity ('God likes a person who works to seek perfection,' reported by Abū Ya'lī and Ibn 'Asākir quoting 'Ā'isha quoting the Prophet). Every job is gauged by its degree of perfection. It is not enough to carry out a task; to make it entirely satisfying and discharge one's responsibility, it is necessary also to make sure it is free from flaws or defects.

Given that work is both a duty and a necessity, and that an individual's survival and dignity depend on it, the Prophet directed that care should be taken over the wages of labourers and journeymen, which should be paid to them in full and without delay: 'Give the worker his due before the sweat is even dry on his forehead.' The Prophet even promised those who failed in this duty that he would be their accuser on the Day of Resurrection. According to Imam Ibn Ḥanbal (IV, 229), the Prophet called on people to see to the well-being and happiness of workers: 'He who undertakes a job for us and has no house must be given one. If he has no wife, he must be able to marry. If he has no animal, he must be able to obtain one.' Hence workers must be accorded their rights and be cared for because of the services they render society. If they suffer any harm, society as a whole is responsible. Likewise it is forbidden to require a worker to perform a task beyond his ability. In this connection al-Ghazālī devotes a chapter in his *Iḥyā'* to work and wages; it quotes many traditions.

This mutual help exists on many levels. It means everyone doing his duty, and that the role assigned to him of helping the weak and needy, not out of generosity or to do good but because it is a duty, is a social responsibility sanctioned by the spiritual and temporal authorities. This is the sense of the *ḥadīth* reported by Ibn 'Abbās: 'He who is sated while his neighbour starves is no believer.'[51] Divine compassion is shown to men only if they help

51. Al-Tawḥīdī, 1953, III, p. 72.

one another.[52] The value of a man as a social being is gauged by the services he renders others: 'The best of men is he who is most useful to his fellows.'

This range of situations of man *vis-à-vis* himself, his family, the Islamic community and the state is part of the picture of responsibility, which calls for solidarity, co-operation and fraternity.

The purport of this solidarity is not generosity or doing good, but rather concern to help one another, for this is how members of a society are put on an equal footing, rejecting discrimination. Then differences vanish, and rancour and jealousy disappear. Thus everyone's actions are performed in the service of God, according to the saying that one should only wish for others what one wants for oneself.

52. *Ibid.*, II, p. 130.

Chapter 5

The family basis of the Islamic city

Ravane M'Baye

It is often said that the family is the basis of every society. The family is the basis of any and every social group, whatever its structure, form and size, and whatever kind of relationships, positive or negative, exist between its members. It is the first scenario an individual relates to on coming into this world. It is within the family that social and individual relationships are formed, within the family that newborn beings relate to each other as they prepare for the many tasks that lie ahead. As a productive, reproductive, creative and procreative unit, the family is attuned to whatever the environment has to offer, and organizes the very basis on which culture and civilization are built. In a word, it is universally true that the foundations of the community are often built up from the family.

These conclusions, reached almost unanimously by sociologists, anthropologists and lawyers, are perhaps truer for Islamic societies than for any others. In Islam the family has played and still plays a key role; it is seen as the crux of interpersonal relations, as the hub where man's relationships with nature and God are fulfilled and tested. A whole system of kinship, filiation and relationship by marriage is laid down in the Qur'ān and the *sunna*; they also prescribe precise rules to deal with heritage and its transmission from generation to generation, and assign very precise rules to family members.

Thus morphology and the social dynamic are broadly conditioned by inter-group alliances and by the method of inheritance. The family performs a threefold function. In regard to the mobility of women, it meets the desires of men and women, organizes the reproduction of the species, and allows the body to find physical fulfilment and enter upon responsible sexuality – and hence to widen the group's demographic base. In regard to the exchange of property, it defines heritage as material capital transmitted from generation to generation according to rules which apportion it very precisely according to

kinship. The way property changes hands ensures the durability of the structure, while at the same time allowing scope for development. In the cultural field, the rules for the exchange and transmission of the intangible heritage are also important: for in the last analysis this is what has always protected the religious and spiritual foundations of Islam from all the threats made against it – which nowadays constitute a problem.

The institution of the family, based on the precepts of the Qur'ân and the injunctions of the Prophet, thus defines a kinship system, a productive structure and an intellectual, cultural and spiritual space. It constitutes what the sociologist Marcel Mauss called a 'total social phenomenon'. The whole of Islamic civilization can be understood from it. It is the crossroads at which religious, political, cultural, economic, social, educational, sexual, affective and aesthetic concerns meet and intertwine.

We cannot deal with all these questions, which are thoroughly covered by other chapters in this book. We shall content ourselves in the following pages with describing and analysing the legal framework which *fiqh* provides for the family, and with bringing out the challenges posed by the demands of modern life.

The entire Islamic concept of the family revolves around its hub: marriage (*nikâḥ*), which legitimizes the couple's relationship and defines its nature, with all the consequences for kinship and succession that flow therefrom.

The nature of marriage in Islam is based on a free, responsible contract, but in a legal context which defines both the terms for participating in this contract and also its implications for the partners and the children of their union. By this alone the family is a masterly balance of reciprocal responsibilities. Family members are linked to each other by a whole set of rights and duties. Thus (contrary to some orientalists' assertions) marriage (*nikâḥ*) bears no resemblance to a commercial transaction. The dowry a Western woman brings her husband does not mean that she has 'bought' him, any more than that which a Muslim man brings his future wife means that a sale is involved.

The responsible exercise of sexual enjoyment, legitimized in the context of marriage, rationalizes, purifies and symbolizes a couple's relationship, and enables parent–child relationships to be based on affection, piety and respect.

Islam based marriage first and foremost on 'affection and kindness'. God said: 'And among His signs /Is this, that He created /For you mates from among /Yourselves, that he may /Dwell in tranquillity with them, /And He has put love /And mercy between your (hearts)' (XXX. 21). Love and mercy were thus the link established by Islam between man and wife in marriage. To strengthen this sense of concord, love and mercy, Islam stressed the common origin and shared destiny of men and women, and their equality (IV. 1; XLIX. 13).

In basing the family on these foundations, Islam had several aims, including ordering human beings' natural inclinations for reproduction and procreation so as to ensure the perpetuation of life. Islam encourages the building of a family, for that helps this perpetuation. All the prophets prayed to God to give them a good progeny (XIII. 38). The relationship between men and women as parts of society also needs to be organized: they must be given a chance to live lives based on love, concord, mutual respect and a division of duties according to each one's aptitudes and means, so as to find serenity and peace of mind (XXX. 21). A sense of virtue also needs to be inculcated in the spouses, so that they both respect this covenant, which the Qur'ān calls 'solemn' (IV. 21). In this way the contract is no longer a mere social contract, but becomes a contract confirming God's commandments and prohibitions. The Qur'ān says that believers will be blessed 'Who abstain from sex /Except with those joined /To them in the marriage bond' (XXIII. 5–6). Lastly, a lineage needs to be protected, for ethical, social, financial and health reasons: for the effect of marriage is that everyone has a known father and grandfather, and conjugal relationships, whether legitimate or not, are clear to see.

Islam's concern with the family stems basically from the importance it attaches to marriage, family life and education. To fulfil the mission entrusted to family life, and adapt society to it, Islam has instituted a contract called 'marriage' which associates a man and a woman as a couple. Marriage is a contract to which the Muslim religion attaches great importance: it has therefore built it on firm foundations, some of them invariable and common to all human beings wherever they may be, known in works on *fiqh* as *arkān* (pillars) or *shurūṭ* (conditions), whilst others vary according to period and surroundings.

The Qur'ān and the *sunna* contain texts which, though they may not actually demand marriage, strongly encourage it. Both spouses can obtain tangible advantages and real profit from it.

Verse 21 of *sura* XXX quoted above shows that marriage has psychological effects on human beings, giving them tranquillity and peace of mind. Marriage also has a social meaning, according to this verse: it is one of the main factors that help society preserve its integrity, for it fosters affection and kindness between spouses, who will rear their children in accordance with its values, and members of society will thus have been brought up in their families in accordance with its ethical principles.

Affection and kindness are factors for peace: practised in married life, they introduce a spirit of fraternity and concord.

All the prophets, from Adam to Muḥammad, were given wives by God (XIII. 38).

The Qur'ān regards marriage as a weighty contract, and one that is beneficial psychologically, physiologically and socially; it calls it a 'solemn

covenant'. Moreover it is the only contract so defined by God between two human beings. The expression 'solemn covenant' occurs three times in the Qur'ān, twice to denote the contract between God and His servants (IV. 154; XXXIII. 7) and once to denote the marriage contract (IV. 21).

The *sunna* encourages man to start a family. The Prophet exhorted young people, whose sexual drive is stronger than that of others, to marry. He said to them: 'Let those of you who can set up house get married, for it is the best way to keep clear of sin and preserve one's virtue.'

The Prophet stressed that, in moral terms, marriage is doubly valuable: it prevents men's eyes resting on that which is forbidden, and it guards against adultery. The Prophet inveighed against the monastic life, and those who cut themselves off from the world and from marriage, and disapproved of their behaviour. He once blamed a man who turned aside from the world, married life and work and let his brother support him. He said: 'His brother is better than he.'

To restrain instinctive urges, those who have been unable to marry must often fast, which quenches desire. We may point out here that Islam uses a religious obligation, in this case fasting, to deal with psychological problems and subdue man's instincts. For fasting, as we know, is a ritual act which helps men to be abstinent and stay aloof from many sensual pleasures. This is why the Prophet regarded it as a remedy for those who cannot set up a home. He said, at the end of the *ḥadīth* already quoted: 'He who cannot set up a home must fast. That will help him to tolerate abstinence.'

Marriage itself is so important that the Prophet regarded it as a prescribed ritual act. When he told his companions that carnal intercourse with a woman was an act of charity, they said: 'Is it possible that by assuaging one's sexual desire one earns a reward?' He replied: 'Yes, for if that desire had led to a forbidden act, would not that be a sin? Contrariwise, if it is assuaged in a lawful act, that merits a reward' (Muslim; one of the forty indisputable *ḥadīths* collected by Nawāwī).

In conclusion, we may say that the Qur'ān and the *sunna* insist on the need to start a family, and the many advantages to be gained thereby, emphasizing the moral aspect. Celibacy is regarded in some verses and *ḥadīths* as a situation which causes human beings to lose their virtue and leads them to fornication. God said: 'Let those who find not /The wherewithal for marriage /Keep themselves chaste, until /God gives them means /Out of His grace' (XXIV. 33). Lastly, men are exhorted to procreation, which is one of the fundamental aims of the family.

For procreation is the direct consequence of life: children are the fruits and flowers of marriage, and the ornament of life in this world. As the Qur'ān says: 'Wealth and sons are allurements /Of the life of this world' (XVIII. 46).

Sociologists and anthropologists often define the family on the basis of the prohibition on incest (*nikaḥ al-maḥārim*). Using these criteria, we find points in

the marriage system laid down by *fiqh* which both characterize the marriage system as Islamic and sharply differentiate it from other societies. The prohibition in Islam extends to ancestors, descendants and lateral relatives.

It equates foster relationships with blood relationships: children who have sucked the same teat together are reckoned to be siblings, and cannot marry one another. On the other hand there is no adoption in the true sense of the word, and it plays no part in the definition of forbidden degrees. It should also be noted that marriage between cousins is possible at all degrees, whether uterine or consanguine. This simple tolerance is widely used in Islamic societies: marriage with a female paternal cousin is preferred, because it enables the patrimony to be kept intact rather than being subdivided by the complexities of inheritance between a number of beneficiaries with inevitably divergent interests.

The family is thus defined from the outset in the broadest possible terms: all the more so because two other features, polygamy and divorce, help to broaden it. It is well known that in Islam a man can, under certain conditions, marry up to four wives: and this widens the scope further. Marriage not being a permanent act as in other societies, divorce is very easy in Islam. Surprisingly, it helps to widen the basis of the family, since the same man – or the same woman – can have children by different partners, so that a man's or woman's fecundity is often pushed to its maximum, especially because age differences do not act as deterrents in all societies, as they seem to do in modern or modernized ones.

Thus the family in Islam is from the outset thought of as extended to the maximum. In order that extension should not result in a weakening of family relationships, Islam has considerably strengthened the spiritual and moral ties between its members. Parent–child relationships are sublimated, and a duty of care is decreed. Hence the family, conceived from the outset as a strong, organized, independent structure, has played a key role in history. It is unquestionably the family that has ensured the cohesion of Islamic societies, despite the countless aggressions committed against them.

CHILDREN'S DUTIES TO THEIR PARENTS

Islam wants children to know their duties to their parents, in such a way as to avoid the pitfalls of disobedience, show filial piety to them, and repay them for the advantages they showered on them in taking endless pains to educate them and protect them until they reached adulthood.

Children are in duty bound to obey and respect their parents and to do whatever they ask of them insofar as it lies within their power, provided that these requests do not contravene the precepts of Islam. God said: 'O my Lord! so order me/That I may be grateful/For Thy favours, which

Thou /Hast bestowed on me and /On my parents, and that /I may work the righteousness /That will please Thee: /And admit me, by Thy grace, /To the ranks of Thy /Righteous Servants' (XXVII. 19).

When parents who are dependent on their children reach an advanced age, the Qur'ān teaches children that they must show understanding towards them and treat them with kindness and tenderness: 'Thy Lord hath decreed /That ye worship none but Him, /And that ye be kind /To parents. Whether one /Or both of them attain /Old age in thy life, /Say not to them a word /Of contempt, nor repel them, /But address them /In terms of honour. And, out of kindness, /Lower to them the wing /Of humility, and say: "My Lord! bestow on them /Thy mercy even as they /Cherished me in childhood" ' (XVII. 23–24).

The idea of the family, as established by *fiqh* and practice, has for long centuries made it possible for this basic institution to fulfil the role that society as a whole was entitled to expect of it. With astonishing flexibility, it has carried out its functions in a wide area of humanity and over an astonishingly long period. Modern times have brought new ideas and called upon the Muslim family to rethink itself; in particular, the role of the partners has been questioned. Equality and complementarity between members increasingly seem to be insufficiently translated into everyday reality. More particularly, a husband's unilateral repudiation of his wife (which is absolute, whereas the wife's right to divorce remains conditional) and polygamy are the most contentious points. *Fiqh*, of course, has answers to these questions. And many present-day Muslim societies have enacted laws which, while positive in form, at the same time aim to conform to traditional doctrine and take charge of the new arrangements.

The twentieth century has seen the appearance of laws on the family in the Arab world from Egypt to Tunisia, whereas previously the *shari'a* was the sole legislation governing all aspects of life in Muslim Arab states. Those who drew up these laws say that they wanted to make changes in the status of the family to take account of changes in the customs and traditions governing the status of the family in the various countries. Moreover some of them were probably influenced by Western ideas suggesting that women should have complete freedom and be the equals of men in the exercise of responsibility regarding the home, justice and administration – responsibilities which were previously a male monopoly. Moreover there are some non-Muslim communities in Islamic countries, which strengthened the hand of advocates of the enactment of non-religious laws concerning the family.

The 1917 Ottoman law on family rights must be seen as the first of its kind. It has 157 articles, and can be said to have been the forerunner[1] of many laws on the family adopted in the various Arab states. This law does not

1. Al-Ṣabūnī, 1968.

cover all aspects of civil status, but pays special attention to marriage and repudiation (*talāq*). It is not linked to any particular school of law (such as the Ḥanafī school, predominant in Egypt), but borrows features from other schools or resorts to personal interpretation (*ijtihād*). This is true of all laws on the family in most Arab countries. It can also happen that it conflicts with the texts of the *shari'a*. Most of these laws tend, on the one hand, expressly to forbid polygamy, like the Tunisian and Syrian ones, or to introduce constraints that make it impracticable (the argument there being that polygamy makes it impossible to provide for the needs of wives or be fair to them); on the other hand, they tend expressly to forbid repudiation, or see to it that it can only happen before a tribunal; and lastly, they aim to limit the powers of the legal authorities and give judges wide jurisdiction.

Below are some provisions of the Ottoman statute on family rights, which was in force in Egypt, Syria and Jordan until the passage of the Syrian law of 17 September 1931 and the Jordanian one of 16 August 1951:

It sets a minimum age for marriage, and forbids parents to give their sons and daughters in marriage before they reach that age, although the *shari'a* allows a father to give his daughter in marriage at any age, whether she be pubescent or not.
It forbids marriage when there is a big age difference between the man and the woman.
It limits polygamy, judges having the power to forbid the second or third marriage.
It gives a wife the right to require of her husband not to take another wife, and if he fails to comply, she may ask a judge to end the marriage contract.
It gives a repudiated wife the right to seek reparation.[2]

Despite this attempt to modernize the laws of Muslim countries, the Islamic family is nowadays in crisis – a crisis, actually, that extends far beyond it. It is deeper and more general, and merely serves to bring out, at the domestic level, the contradictions and difficulties of society as a whole. This crisis is at once demographic, economic, sociological, cultural and spiritual. In fact, the great tendency to move from the extended family to the nuclear family involves not so much partial adjustments as an overall revision, and the setting up of an institution capable of fulfilling its heavy responsibilities and embodying Islamic values. For these values are very obviously what counts, much more than formal details: they are what we need to save if we are to remain faithful to the spirit and letter of Islam, not to this or that form – on which in any case there has never been real unanimity.

2. *Ibid.*

The world today stands at a crossroads: problems of every kind have proliferated, and it is difficult for it to cope with the multifarious challenges that face it and threaten the stability of societies everywhere.

In the twentieth century, given the giant strides made by science, people think that all the problems standing in the way of human progress will be solved thanks to the spectacular results obtained by science in every field. Unfortunately, this hope has turned out to be a mirage. Maldistribution of wealth, the deleterious influences resulting from colonialism and the uncompensated exploitation of the resources of newly independent but weak countries – all this has aggravated the crisis affecting the modern world in every field, economic, social and cultural. Islamic states and countries have not been spared.

SOCIAL MUTATIONS

There are many factors threatening the Muslim family. Some have to do with Muslims themselves, others are the result of the social setting – especially if it has other material or moral features which diverge from what is generally accepted in a model Islamic society. What further aggravates this crisis is the multiplication of ideologies, whose detrimental effects on Islamic society can only be averted by greater vigilance and foresight in the choice of ways of confronting it. Many Islamic countries do not seem to have taken the necessary precautions against these noxious influences, which gradually infiltrate them along with factors for material progress. The latter often bring with them laws, a way of life and a pattern of relationships which take no account of religious values, but target Islamic societies whose development plans require interaction with these factors. These societies thus find themselves obliged to adopt other societies' values, remote from Islamic ones, in order to solve their development problems. To bring their expansionist ambitions to a successful conclusion, the large developed countries do not hesitate to use every means to bring pressure on the Islamic states to reject the precepts of Islam in the economic, social and cultural fields. This plan, drawn up consciously or unconsciously by these states, is beginning to have an impact, particularly on the environment, in many Arab countries: since some governments seek to reduce the family to a nucleus of father, mother and children, whereas according to Islam the family is a huge unit comprising paternal and maternal uncles, brothers and sisters.

In addition to these problems there is that of housing, which afflicts weak Islamic countries subjected to the influence of powerful neighbours: the result is a policy directed towards the building of small dwellings. Such a policy does not meet the needs of the Islamic countries, which take a broad view of the family quite unlike that current in the West. Such dwellings have the

effect of inculcating an egoistic and individualist approach very early on, and of encouraging people's tendency to escape from paternal authority. This has serious repercussions, such as vagrancy – a social scourge in many countries.

ECONOMIC STRAINS

The difficult economic situation of many Arab and non-Arab Muslim countries, and their economic backwardness, does not help the Islamic family to preserve its independence and ward off influences that might well bring about its disintegration.

A situation of greater or lesser dependence, according to the country, makes Muslim countries vulnerable, and hence receptive to standards and values that are alien to their traditions and to their economic, social and cultural equilibrium.

Circumstances making for the disintegration of the Islamic family include the fact that the means of production are concentrated in the hands of people unconcerned about the religious specificity of the family. Given that the resources – jobs and credit facilities – which enable people to settle down in their country and their family environment are continually becoming scarcer, especially in the backward countries, many heads of families emigrate in order to meet their own and their families' needs: and this exposes these families to many dangers, the worst being loss of cultural and religious identity.

Lastly, in the interior itself of these countries unemployment is widespread, and affects many people. It is the prime factor making for instability, and helps to make people receptive to outside propaganda of all kinds: and this represents a threat to the precepts of Islam.

CULTURAL CHALLENGES

Large countries have information media which support their cultural policies. They open cultural centres in various parts of the world and devote substantial budgets to them: they publish and distribute newspapers and magazines, usually free of charge, and produce and broadcast radio and television programmes of all kinds, which spread the germs of ideas they wish to implant in other cultures.

Given that Islamic countries receive many of these Western broadcasts, it is usually impossible for them to counter or neutralize the influence they exert on citizens of all ages, men and women, especially since the sets needed to receive these broadcasts are very easily available.

Moreover, the content and methods of education in Islamic countries being virtually the same as in Western countries, it is not surprising that Muslim

families gradually give up their religious values without being aware of it, and adopt foreign habits, values other than those of Islam and new ideas.

Then again, publications of various kinds and with varied contents – novels, stories, magazines, photographs etc. – convey (without explicitly enunciating them) ideas among which young Muslims cannot in many cases tell the wheat from the chaff. Through these publications they start to copy the West in the worst aspects of its civilization, be it the pursuit of absolute freedom or the adoption of Western behaviour, abandoning themselves to their sexual urges and to violence and having no respect for their parents and grandparents. This makes the younger generation, especially boys, strangers in their own countries, yearning for a different country and a different society from their own.

Major problems now disturb the Islamic conscience, just as they also disturb other men's. There are basically three of them: family planning, artificial fertilization (and its corollaries genetic engineering, *in vitro* fertilization and embryo transplants) and lastly sexual permissiveness. Islam has no institution, such as a church or a synod, capable of evolving doctrine, still less of imposing it on all believers; nevertheless, it has provided significant and reliable answers, on which we propose to dwell.

WOMEN GOING OUT TO WORK

Thanks to the considerable efforts made in this field during the past forty years, young Muslim women have familiarized themselves with many modern scientific and technological disciplines, come to the fore in many fields such as medicine, teaching and scientific research, and found jobs in many sectors. These are the girls who, when they get married, will have to go out to work.

But Muslim women going out to work gives rise to many problems: it means that they have to consort and associate with foreign women, and in their family setting to come under the influence of alien values that may be inconsistent with their own.

Given the close link between women's right to work and own property and their duty to eschew whatever Islam forbids them, the *faqihs* (doctors of the law) have defined the conditions women must fulfil and the categories they must belong to in order to be allowed to work, and also the types of activity reserved for them.

As to the conditions, the *faqihs* consider that a woman, whether married or not, may go out to earn a living if she is the sole support of a father, husband or children, provided she is so attired as to conceal the parts of her body that may only be shown to the persons listed in the following verse:

> And say to the believing women /That they should lower /Their gaze and guard /Their modesty; that they /Should not display their /Beauty and orna-

> ments except /What (must ordinarily) appear /Thereof; that they should /Draw their veils over /Their bosoms and not display /Their beauty except /To their husbands, their fathers, /Their husbands' father, their sons, /Their husbands' sons, /Their brothers or their brothers' sons, /Or their sisters' sons /Or their women, or the slaves /Whom their right hands /Possess, or male servants /Free of physical needs, /Or small children who /Have no sense of the shame /Of sex; and that they /Should not strike their feet /In order to draw attention /To their hidden ornaments. /And O ye Believers! /Turn ye all together /Towards God, that ye /May attain Bliss (XXIV. 31).

Thus according to this verse a Muslim woman may not wear just any attire, nor associate with just anyone, nor go out just on a whim or out of coquetry.

The activities in which a woman may engage include caring for the sick, teaching, medicine and trade – provided her activities are suitable for her and allow her to preserve her honour and her dignity. Khadīja made her income from trading, and the Prophet did not forbid her this activity. But Islam forbids women to leave the realm allotted to them by nature and take over realms which are traditionally those of men.

In the modern era there are many women who work in various sectors of activity, public and private, give their employers every satisfaction and peace of mind, are competent and trustworthy, obtain good results and contribute their full share to the progress and open-mindedness of modern life. There can be no question of underrating women's potentialities if they are prepared to undertake various tasks necessary to society, without that affecting their attachment to religion or preventing them looking after their home in the best possible way. Moreover we must take account of the useful income they bring in by the sweat of their brows.

The new Islamic society, faced with the many challenges of the modern world, must give women every opportunity to express their potentialities, so that they may help men meet the responsibilities that fall upon the couple and take part in decisions about its life.

BIRTH CONTROL

The so-called 'population explosion' continues to preoccupy thinkers, economists and planners throughout the world, in both the developed and the developing countries. Some theories advocate the use of the labour of the millions of unemployed; but there are others, especially Malthusianism, which call for birth control. These latter, however, take no account of the various kinds of catastrophes that periodically afflict mankind – wars, natural disasters and so on.

After the two world wars, which caused the death of millions of men,

women and children, some Western countries, particularly France, took steps to encourage a rise in the birth rate. This policy, helped by the rapid progress of modern science in the realms of medicine and biology, resulted in a demographic explosion unprecedented in human history: and this led to the emergence of fresh economic and social problems which particularly affect the developing countries.

In the light of this dangerous situation countries such as India, and the international organizations, both intergovernmental and non-governmental, advocate by all the education and information means at their disposal the introduction of a system of birth control, especially in economically backward and relatively unproductive countries.

However, this campaign raises philosophical, religious and ethical problems which need to be solved first. So philosophers, thinkers and men of religion have tried to play their roles in this field in the hope of finding an acceptable solution to this thorny problem.

In Islamic societies there are people who campaign in favour of birth control and others who oppose it – though this question has been familiar in another form ever since the days of the Prophet. Several of his Companions practised withdrawal (coitus interruptus), and when some of them realized that this practice might run counter to the precepts of Islam, they asked him about the question of withdrawal: but he neither approved nor disapproved of it, neither permitted nor forbade it.

If we refer to the Qur'ān, we find that it confines itself to forbidding the burial of girls alive and dissuading the Arabs from this practice. Here are the two verses in question: 'Kill not your children /On a plea of want; /We provide sustenance for you /And for them' (VI. 151); 'Kill not your children /For fear of want. We shall /Provide sustenance for them /As well as for you' (XVII. 31). These two verses are supported by the following verse: 'There is no moving creature /On earth but its sustenance /Dependeth on God' (XI. 6).

Many *faqths* rely on these verses to proscribe withdrawal.

What impelled some of the Companions to practise withdrawal were the difficult economic conditions under which they lived and certain social considerations tending to bring the family into disrepute.

There are dozens of *hadiths* dealing with withdrawal; to quote a few:

Al-Bukhārī, Muslim, al-Tirmidhī and Ibn Māja report a *hadith* of Jābir which says: 'We used to practise withdrawal in the days of the Prophet, at the time when the Qur'ān was being revealed.'

Al-Bukhārī also reports a *hadith* of Abū Sa'īd al-Khudrī which says: 'We took a woman captive, and we used to practise withdrawal. We asked the Prophet about this. He said: "Do you really do it?" (repeating it three times). "Every creature that comes into the world will inevitably exist until the Day of Judgement." '

Muslim reports the following *ḥadīth* according to Abū Sa'īd al-Khudrī:

> With the Prophet, we defeated the Banī al-Muṣṭalaq, and we took some women captives among the Arabs. Separation was weighing on us, and we wished to sacrifice ourselves. So we wanted to take our pleasure by practising withdrawal, and we asked ourselves: 'Can we do that without asking the Prophet, seeing that he is among us?' So we asked him, and he replied: 'You have only to do what God has written. Every creature that comes into the world will inevitably exist until the Day of Judgement.'

On the strength of these *ḥadīths*, the *faqīhs* went as far as to allow withdrawal when a husband is having sexual intercourse with his wife. The Mālikīs, Ḥanbalīs and Ḥanafīs agreed in saying that it is allowed provided the wife wants it. The Shāfi'īs expressed differing views on this question: some of them approved of this proviso, whilst others disapproved of it.

ABORTION

The question of abortion seems more complex, for it has medical and scientific aspects which need to be examined in case we have to refer to them.

People have recourse to abortion also in order to limit births. This is why the *faqīhs* of the different schools of law have attached great importance to this question and studied it thoroughly. They have precisely stipulated the situations and conditions in which abortion is permissible, and have drawn a distinction between spontaneous abortion and therapeutic or necessary abortion. They have described the various stages of conception, the formation of the foetus, its development, etc. Some have gone so far as to proscribe abortion in all its forms.

There are differing doctrines in this field. The Ḥanafīs, for instance, hold that once conception has taken place a pregnancy may not be interrupted: some, however, hold that abortion is permissible up to the 120th day of pregnancy, and others up to the 40th day.

The Mālikīs agree in thinking that abortion is not allowed from the moment of conception, and that it is forbidden from the 120th day of pregnancy.

On the other hand, al-Qurṭubī holds that abortion is allowed during the first 40 days following conception.

The Shāfi'īs hold that abortion, if carried out in accordance with the wishes of both spouses and by suitable medical means that do not compromise the health of the pregnant woman, is not prohibited – although it is reprehensible – provided it takes place during the first 40 days of pregnancy, whether or not the foetus has shown signs of life.

The Ḥanbalīs all hold that after the first 120 days of pregnancy,

i.e. when the foetus begins to move and thus to show signs of life, abortion is prohibited; but as regards abortion during the first 120 days their opinions differ.

CONTRACEPTION

Birth control is one of the issues that specialists are most concerned about nowadays: and they are looking for suitable scientific means of solving the problems it poses.

Contraception continues to have its champions and its detractors. Its champions hold that at a scientific level it can be a useful solution for many poor people who find it hard to support a large family, and also for women who regularly have miscarriages, which can cause them serious illnesses. Its detractors consider that this solution is not devoid of danger, since it may cause permanent sterility, hysteritis, etc.

Contraception is achieved by the use of pharmaceutical preparations or intra-uterine devices of various kinds. In some Islamic countries the population has for some years been invited to use these methods, on the basis of programmes carefully worked out by specialists, who consider that they are ideal and that their use should be encouraged by everyone anxious to see a harmonious family organization affording the couple a guarantee of complete comfort. They hold that these methods are in no way ethically or psychologically detrimental, and call for no particular skill on the part of the women who use them. The pill, and intra-uterine devices, are designed to fit the characteristics of the natural genital apparatus and prevent ovulation. As soon as a woman stops using them, she can procreate again.

As for surgical sterilization, it raises a serious problem because of the religious, ethical and philosophical considerations involved. By and large, it is a matter of individual conscience: the use of this method seems permissible to some and not to others. Those who have studied the problem fall into two opposing camps, one favouring prohibition, the other permission. Consulting the Qur'ān and the *sunna* has not produced a solution one way or the other.

From the religious point of view, two schools of thought are apparent. One holds that sterilization is forbidden, even for therapeutic purposes, because it is an operation that impairs the integrity of a human being and debars him or her from paternity or maternity: when God created man, He had secret plans that man cannot completely comprehend. Moreover, according to the faith, every human being that comes into the world necessarily has an existence: hence Muslims may not practise withdrawal, contraception, sterilization or celibacy, since these run counter to the judgement of Almighty God.

The other school of thought favours sterilization, as the ultimate appropriate way of resolving problems and avoiding suffering if there is a risk that

Woman in crash helmet with child on a motor-scooter
in front of the mosque of Kampong Batu in Kuala Lumpur (Malaysia)
Abbas © Magnum, Paris

a man will transmit incurable illnesses to his offspring. The supporters of this school of thought also say that the Qur'ān and *Hadīth* contain no text explicitly forbidding sterilization.

On this basis, the *faqīhs* have held that recourse to sterilization is allowed if the man suffers from an incurable psychological, mental or sexual disease: this is so that he will not transmit his sexual disease to his children, for preventing evil takes priority over doing good. It is in the interests of the man himself, his children and society to avert diseases and taints that might spoil his whole existence and that of his children.

Artificial fertilization, genetics and embryo transplants pose fresh problems, which the overwhelming majority of current doctors of the law deal with strictly according to the principles of filiation, which must be complied with, and of the clearly identified interests of the parties.

Sexual freedom

Islam does not recognize what is known as sexual freedom outside marriage. It insists on the preservation of abstinence, chastity and the purity of the line, which must not be tainted by any weakness or anything unknown or destructive. It opposes anything that fosters the spread of vice in society, and has chosen the right remedy for that, namely regulating marriage and allowing men who can to have several wives, up to a maximum of four.

In Western countries some governments have introduced what is called sex education for boys and girls in secondary schools. These countries do not concern themselves with the ethical and religious aspects, which need attention, but leave these innocents to the mercy of their uncontrolled instincts. Among the pernicious consequences of the freeing of sexual relationships is venereal disease, which affects many young and adult men and women and kills millions of human beings throughout the world.

Lastly, all this certainly encourages the spread of prostitution and adultery.

It must not be supposed from this that Islam takes no interest in sex education. On the contrary, it has been paying attention to this question for centuries, and very many books have been written and may be consulted by those interested.

But while sex education is indispensable, Islam considers this to be a task for mothers, who must teach their daughters the essentials of what they need to know, such as menstrual cycles and the rules to be followed as regards conjugal relationships, so as to prepare them for their role in this field.

Old age

Islam has not remained idle in the face of the painful situations afflicting old people in many societies. In Western societies, for instance, when a man reaches an advanced age and his strength leaves him, his children in many cases put him in an old people's institution in order to be rid of him.

Islam, in this field, calls upon people to take care of their parents and lavish affection on them, as we saw above, reminding them of children's duty to their aged parents. This is how, according to Islam, old people and parents ought to be treated.

Islam regards old age not as an obstacle slowing down the pace of events in society and therefore to be eliminated, but as an efficient and useful feature, a precious resource to which people must from time to time have recourse.

But the new social and economic conditions inherited from the West, and the appearance of what is called the 'nuclear family', have begun to de-

stroy the image of the extended family, which comprises grandparents, parents, children and paternal and maternal uncles, and still exists in some Islamic countries. Everybody knows the strength and cohesiveness of the bonds of family and social solidarity, and how much is lost if old people are abstracted from the life of society despite their experience and wisdom. An African sage, Sheikh Hampate Ba, does not hesitate to say: 'An old man who dies is a library going up in flames.'

Hence it is in the interests of Islamic society to seek by every means to care for old people, and not to shun them and break loose from their control and authority, which has the effect of making them strangers.

Many old people are capable of pursuing their usual professional activities on an equal footing with those who have not reached their age, for they still possess the physical and intellectual qualities needed to do so.

The state could, for example, devote part of its budget to old people who wish to go on working on their own account in the private sector, e.g. in farming. Such an initiative could help them adapt to their new situation and maintain their mental, psychological and spiritual balance, giving them a serene and peaceful life secure from the anxiety and stress that make old age harder to bear.

A *ḥadīth* says: 'He who breaks the ties of blood goes not to paradise' (Ibn Ḥanbal, IV, 80, 83, 84). To deter from ingratitude towards parents, the Prophet said: 'There are two ways of losing one's child: the child's ingratitude is one of them.' Children and grandchildren are therefore expected to give old people the care and services they need, so as to preserve the unity and cohesion of the family.

Obviously the enlargement of the circle of natural heirs to include relatives of the deceased means that the Islamic family must be regarded as an extended family, not limited to direct forebears and descendants but including also paternal and maternal uncles, and brothers. By the same token, Islam places an obligation on persons with adequate means to provide for relatives, even distant ones, who are in need.

By basing itself on Islam's valuable precepts about the unity of the family, mankind would foster security, stability and balance.

THE FAMILY IN THE WIDEST SENSE

Islam has a particular social philosophy which deals not only with individuals living in society but with all men. The verse which says: 'O mankind! We created /You from a single (pair) /Of a male and a female, /And made you into /Nations and tribes, that /Ye may know each other /Not that ye may despise (each other). Verily /The most honoured of you /In the sight of God /Is (he who is) the most /Righteous of you' (XLIX. 13) shows that the

supreme objective of our differences is for us to know one another, whether at the level of individuals or of societies. The family, which is the basic unit, must not be restricted in scope, for that might involve the dispersion of its members, bound to each other as they are by the *shari'a*, which has established rights and obligations between them.

God said: 'The Believers are but /A single Brotherhood' (XLIX. 10). Fraternity, advocated by Islam, extends to all believers, even in the absence of blood ties. To achieve this fraternity the family must be understood in the widest sense, i.e. as encompassing not only individuals linked by blood, but also the various 'fraternities' derived from families to constitute a single fraternity, that of Muslims, which is very important for Islam.

Thus Islam considers the family in its widest sense.

THE FAMILY IN THE NARROWER SENSE

Islam's idea of the family differs from the Western conception. The family in Islam comprises not only the two spouses and their children but also the lineage. The family according to the Western notion comprises not more than three members, father, mother and child: in Western eyes it represents a burden which needs to be lightened and limited, for it hampers the progress advocated by the West. The result of this idea is a family based on monogamy and comprising few children; parents are freed from the obligation to meet their children's needs once they reach the age of 18, so that a son breaks his links with his parents and enjoys unlimited freedom, whereas in Islam parents must look after their children until they reach legal competency (in the case of boys) and until marriage (in the case of girls). Westerners have sought to impose the model of the nuclear family on many countries, using various means for that purpose including housing and the inheritance system. Dwellings are built on the Western model, designed for a maximum of five persons, the two spouses and three children. As for the inheritance system, only the above-mentioned family members may inherit, whereas under the Islamic system blood-brothers and freed slaves can also inherit.

CONCLUSION

After this rapid survey of the family and Islam's view of it, which has enabled us to study the main aspects of this question, we find that the Muslim family is evolving along lines which no longer faithfully reflect the ideas and rules laid down by Islam.

In many Islamic countries the family is in danger of very quickly losing its Islamic character. Married life in these countries is nearer to Western mar-

ried life than to that advocated by Islam. Children's education is no longer based on the spiritual and material foundations laid down by Islam. Relationships between members of Islamic society are now increasingly determined by foreign ideas and evaluated in terms of imported criteria. All this puts us in a serious situation, to which we must pay attention, for societies which have undergone radical changes in the field of education and the family are transmitting many of their new characteristics to Islamic society.

So the problem remains; but if we took into consideration these warnings which continually arrive from the outside world, we could pause for a little – for long enough to re-examine our plans for the family and education in all its aspects, especially since we know that the methods followed in this field by the aforementioned societies have not yet led to conclusive results.

Chapter 6

ISLAMIC EDUCATION

Muḥammad Fāḍil al-Jamālī

Education is concerned with shaping the lives of people and helping them find a sense of direction and purpose in life. We may distinguish two types of education. One is formal, purposeful, and institutionalized in schools, colleges, universities, etc. The other is informal, pragmatic and occasional. It takes place at home and in social and natural surroundings. The social, economic, civic and religious practices prevailing in the social and natural environment play a role in educating man and shaping his life. Genuine Islamic education includes and unifies both types of education, the formal and the informal. According to Islam, the home, the school and the environment are supposed to unify their efforts in shaping the lives of Muslims, teaching them a way of life which promotes happiness in this life and in the life hereafter.

The fundamental principles of Islamic education are found in the Qur'ān and demonstrated in the life of the Prophet, his words (*Ḥadīth*) and deeds (*sīra*). Both words and deeds are included in the term *sunna*.

A study of Islamic education should start with an understanding of the educational implications of the Qur'ān and the *sunna*. Although Muslim educators have always emphasized the teachings of the Qur'ān and the *sunna*, they have not fully applied their implications for the aims, content and methods of education. It is for this reason that we have tried to give a fair part of this study to the Qur'ān, its educational philosophy, contents and methods, followed by a glimpse of the *sunna* and its great contribution to Islamic educational thought and practice.

Then we give some examples of the contribution of early Muslim scholars to Islamic educational thought and practice.

This is followed by a glance at the qualities of Islamic education in the age of glory in the Muslim world, and in the age of decadence and stagnation.

We then discuss the impact of Western education, a consequence of Western ascent and domination.

The principles of the Qur'ān and the Prophet

The virtues of study according to the Qur'ān

The Qur'ān bestows dignity and significance on knowledge and learning. God appears in it as the source of all knowledge and truth. He is the Teacher and Educator of all mankind. One of God's names and attributes in the Qur'ān is *'Alīm*, which means the Omniscient, All-knowing. God's knowledge is not finite, limited or partial. He knows all 'the in' and 'the out', the 'apparent' and the 'hidden'. He knows the secret of all things.

'He is the First /And the Last, /The Evident /And the Immanent /And He has full knowledge /Of all things . . . He knows /What enters within the earth /And what comes forth out /Of it, what comes down /From heaven and what mounts /Up to it. And He is /With you wheresoever ye /May be, /And God sees /Well all that ye do' (LVII. 3–4).

God is the Teacher of the Worlds (*Rabb al-'alamīn*). The word *rabb* is generally understood to mean Lord, Master and Owner of all the Worlds. But the word *rabb* has also been interpreted as the Developer and Educator by the great Muslim scholar, Sheikh Maḥmūd Shaltūt. The verb *rabbā, yurabbī*, meaning to educate, bring up and develop, comes from the same root as *rabb*, and is current in the Arabic language. Thus, God is the Developer and Educator of all creation.

The Qur'ān tells us that God is our Teacher. He teaches us by the signs He sets out in His creation, and by sending prophets to teach us. 'So fear God; /For it is God /That teaches you. /And God is well acquainted /With all things' (II. 282). God sent His Prophet, 'rehearsing to you /Our Signs, and sanctifying /You, and instructing you /In Scripture and Wisdom /And in new Knowledge' (II. 151).

If God is the All-knowing, the Master, Teacher and Educator, what a dignified position learning and teaching possess in Islam! The King of Kings and the Master of the Universes is Himself the Supreme Knower and the Supreme Educator!

The same God gave man the capacity to learn: 'He taught Adam the nature /Of all things' (II. 31).

And because Adam could learn, he was exalted for his learning, and God commanded the angels to prostrate themselves in veneration of Adam's learning. They all prostrated themselves except Satan who was arrogant and disobedient.

It is also characteristic of Islam that the first Qur'ānic verses that descended on the Prophet Muḥammad were: 'Proclaim (or Read) /In the name /Of thy Lord and Cherisher, /Who created – /Created man, out of /A (mere) clot /Of congealed blood: /Proclaim And thy Lord /Is Most Bounti-

ful, –/He Who taught /(The use of) the pen, –/Taught man that /Which he knew not' (XCVI. 1–5).

The importance attached to learning, reading the Qur'ān and the art of self-expression is revealed in the following verses of the Qur'ān: '(God) /Most Gracious! /It is He Who has taught the Qur'ān. /He has created man: /He has taught him speech' (LV. 1–4).

As a matter of fact, *qara'a* (read) is the root from which is derived the word 'Qur'ān' meaning 'the Book always to be read'. The Qur'ān enjoins every Muslim to learn to read and write, which leaves no place for illiteracy in Muslim society.

The Qur'ān describes how God Almighty provided man with all the physical and mental equipment needed to learn (XVI. 78).

God, having provided man with these blessings, counsels him to move around the world, to observe, to study, to think, to remember and to act. These are the basic processes of all good education. The Qur'ān enjoins Muslims to gaze at God's creation, to study it, to marvel at it, to enjoy it and to benefit from it. The study of nature, history, and technical matters, as well as the study of religion, are all prescribed by the Qur'ān.

It is understood that not all individuals can attain the highest degree of learning, but Muslims are enjoined to teach each other and to counsel each other to seek the truth. If they do not know a certain subject, they should ask those who have studied it (XVI. 43).

The Qur'ān provides that, in time of war, some learned men should stay behind to teach their brethren matters of faith and religion (IX. 122).

It is also recorded in the history of early Islam that Muslims freed prisoners of war if they ransomed themselves by teaching a specific number of Muslims.

Learned men are therefore highly honoured in Islam (XXXIX. 9; LVIII. 11). In return, they must cultivate the virtues, which, according to the Qur'ān, are vital for genuine learning. They must fear God, whose power manifests itself at every level of creation, constantly reminding them to obey God's commands (XXXV. 28). The really learned man remains humble before truth.

Besides fearing God, a learned Muslim knows that his knowledge is only partial and limited. He knows that, in his search for truth, he cannot go beyond what God chooses to reveal to him. All the progress that man has made in science is just a drop in the infinite sea of knowledge which man should continue to explore (XXXI. 27; XVII. 85; II. 255).

Lastly, a learned Muslim's desire for more learning never ends because he knows that he will never finish probing the mystery of creation (XX. 114).

THE PHILOSOPHY OF EDUCATION OF THE QUR'ĀN

The philosophy of education of the Qur'ān is comprehensive, integrative and evolutionary. It concerns itself with the study of the beginning of things, their ultimate ends, and the study of relations and connections between man and his fellow man, between man and the universe, between man and the Creator of the Universe. The Qur'ān deals with all existing things: heaven, earth, living things, material and spiritual beings, the apparent and the hidden, the first and the last. Its ideas encompass all things existing in time and space and proceeding from the Supreme Creator.

The Qur'ān is concerned with integration, balance and harmony. It recognizes the integration of matter and spirit, faith and intellect, the spiritual and the secular, thought and action, pleasure and effort, work and worship, idealism and realism, man and the universe, the universe and the Creator of the Universe.

The Qur'ān considers man as an undivided, integrated whole, and it rejects the philosophies which concern themselves with matter and neglect the spirit, or those which call for the spiritual life and completely neglect material pleasure and the balanced enjoyment of the fine and beautiful things in life.

According to the Islamic philosophy of education, evolution is a process which leads to progress and the rise of man towards the ideal life. Real and genuine evolution is that which carries man towards the best and the most perfect. The essence of Islamic education is to exert effort for excellence in the spiritual, moral, social and intellectual realms.

The aims of education according to the Qur'ān may be summed up under four headings: to acquaint man (the individual) with his place in creation and with his individual responsibilities in this life; to acquaint man with social relationships and with his responsibilities within a human social order; to acquaint man with creation (nature), to help him to comprehend the wisdom of the Creator as shown in His creation, and to enable him to develop nature and to benefit from it; and to acquaint man with the Creator of nature and to urge him to worship the Creator.

We shall not develop these points, since they are dealt with elsewhere in the chapters on norms and values in Islam, rights, responsibilities and freedom under Islamic law, women and human rights. Moral education in the Qur'ān is likewise dealt with in the chapters on moral and social thought in Islam.

We shall therefore proceed to consider the different methods of education advocated by the Qur'ān.

METHODS OF EDUCATION ACCORDING TO THE QUR'ĀN

Educational methods, according to the Qur'ān, are not to be limited to verbal memory work alone but must be active. Teachers should use many different methods in building up faith and morality, knowledge and action. The Qur'ān includes a rich variety of appropriate and effective methods. The following is a survey of the active educational methods intended to contribute to the development of man.

Learning by participation and doing

Learning by doing, or the active method, is both the oldest and the most recent practice in education. It is the method used at the dawn of history, and it is the method supported by educational psychology and called for by modern education.

The growth of man's spiritual life, the building of his morality and the strengthening of his social relationships do not result from preaching alone, nor from memory work alone. They require participation and action so that man's character may be built up by the application of principles in his social surroundings. Putting man's daily life in order, achieving self-control and practising co-operation and sacrifice for the good of the group in social life all require daily practice and exercise at every moment of human life.

The performance of Islamic religious obligations (*farā'iḍ*) certainly educates the Muslim through action and participation. There is educational significance in each religious obligation.

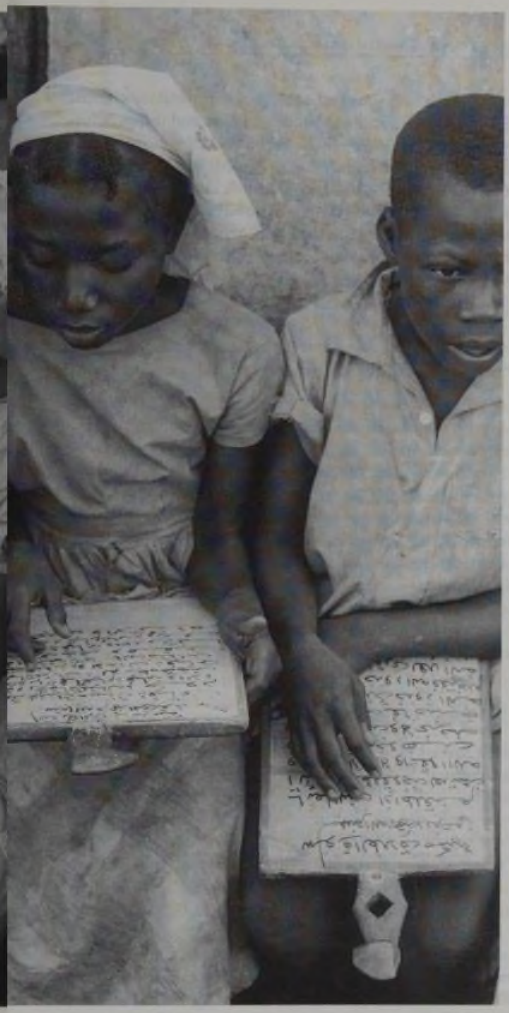
Prayer

Prayer educates man spiritually and morally, for it puts him into communion with his Creator and teaches him obedience and gratitude to God. It also strengthens man's will and teaches him self-control, patience, perseverance and punctuality. Prayer educates man socially. When Muslims participate in group prayer, especially on Friday, they meet all kinds of people, rich and poor, strong and weak, black and white, on a basis of equality and brotherhood. They become acquainted with one another. Besides, prayer provides an education which integrates body and spirit. It requires the cleansing of body and soul, and the performance of physical movements which combine the balanced exercise of the body with the expression of awe, humility and gratitude to the Creator (II. 277; LXII. 9).

Fasting

Fasting is an obligation which contributes to the spiritual education of the individual, for it teaches him to obey God and to seek refuge in Him. It also

Open-air class in a Qur'ānic school, Lagos (Nigeria)
UNESCO/Almasy-Vauthey



provides moral education, for it helps man to achieve self-control, to combat lust and passions, and to develop fortitude in bearing hunger and thirst. It furnishes him with an opportunity for self-examination and for changing his habits of life if they need change. It includes social education for it makes the person who fasts think of the needs of the poor and the destitute and remember that he must help them. Besides, it develops a feeling of social unity and equality, for all members of society perform the same religious obligations at the same time. It also includes physical education which verifies the Prophet's saying (*hadīth*): 'Fast and become healthy.' Thus fasting, which serves many different aspects of human life, is an active and practical form of education (II. 185).

Paying tithes (*zakāt*)

The payment of tithes, which is a religious obligation, and charity and philanthropy, which are voluntary actions enjoined by Islam, are a source of deep spiritual and social education. Acts of giving teach man to obey the commands of God and to combat egoism, excessive material desires and individualism. *Zakāt* literally means purifying, for it purifies the self from greed. It prepares man for social life, which requires not only sympathy for others in their needs and requirements, but a practical coming to their help.

The Qur'ān aims at teaching Muslims to collect donations for the needy. Those who undertake the collection are given a share of the tithes and charity if they themselves happen to be in need. The persons entrusted with collecting the tithes and benevolent contributions and distributing them fairly and honestly to those who deserve them perform a noble function in society.

The pilgrimage to God's Sacred House

The pilgrimage to God's Sacred House in Mecca is both spiritually enriching and a source of human, cultural, social, moral and physical education. The pilgrimage calls for obedience to God in performing certain prescribed rituals, purifying the soul from error and sin, and renewing one's determination to enter a new life of closer communion with God and avoidance of sin. The pilgrimage symbolizes unity – the social and spiritual unity of the Muslims which is prescribed in the Qur'ān. By bringing together people from many countries, differing in colour, language and habits but connected by a feeling of brotherhood and equality, it contributes to the broadening of the social and cultural horizon of the pilgrims. On pilgrimage there is no difference between white, black and yellow, or between the rich and the poor, the strong and the weak, or male and female. They unite in performing the exercises of worship and the rituals of the pilgrimage, with all that is required in terms of patience, perseverance and sacrifice (III. 97).

Holy effort (*jihād*)

Holy effort (*jihād*) for the sake of God is an obligation that requires a Muslim to be ready to sacrifice himself and his possessions for God's cause and to do his utmost, in case of need, to defend the community and the nation, to preserve the Islamic identity and to raise the standard of human life. This obligation of *jihād* was so deeply ingrained in the hearts of the Muslims fighting for freedom that many Muslim nations attained political independence. The struggle continues in an effort to raise the standard of living and to eradicate the vestiges of misery and backwardness so that Muslim countries may occupy a worthy position among the nations of the world today. This struggle has been described as 'the greater *jihād*'. All Muslims are invited to take part in this greater *jihād*. In doing so, they will be acting in accordance with the educational message of the Qur'ān (XXIX. 69).

Observation and inquiry

The Qur'ān encourages man to look, inquire, think, be convinced and then believe. God gave man his five senses and his mind to use. People who follow others blindly without using their senses or their minds are deprecated in the Qur'ān: 'Do they not travel /Through the earth, and see /What was the End /Of those before them?' (XXXV. 44; XXIX. 20; VII. 179).

Example and friendship

Among the most effective influences in a child's education and in the life of man are the friendships that he makes and the models, examples or heroes that he follows. These may develop his character if they happen to be good and healthy and they may destroy him if they are mischievous and evil.

The Qur'ān emphasizes the importance of models and friendship in influencing the destiny of man. It calls on all Muslims to study the life of the Prophet Muḥammad and to take him as a model: 'Ye have indeed /In the Apostle of God /A beautiful pattern (of conduct) /For any one whose hope is /In God and the Final Day, /And who engages much /In the praise of God' (XXXIII. 21).

Learning from history

The Qur'ān cites various historical events involving ancient peoples and nations, not because it is a book of history, but because these historical events contain moral and social lessons for humanity. Disbelief, tyranny, arrogance and moral and social corruption all tend to undermine the social structure and

cause its downfall. The Qur'ān refers to what happened to the people of Noah, the people of 'Ād, the people of Thamoud, the people of Madyan, the people of Lot, the people of Pharaoh and others. They all perished for having diverged from the teachings of the holy prophets and for having violated divine law in their moral and social life.

Rational dialogue

One of the educational methods used by the Qur'ān to direct man towards truth and goodness is the method of rational dialogue. The Qur'ān enjoins man to use his mind, be logical, distinguish truth from error and distinguish right from wrong. He is to make use of observation and reasoning and not to submit to coercion and blind imitation. The Qur'ān recommends gentleness rather than violence in trying to make another person understand and in trying to win him round to the side of truth. Thus it states: 'Invite (all) to the Way of thy Lord with wisdom /And beautiful preaching; /And argue with them /In ways that are best /And most gracious: /For thy Lord knoweth best /Who have strayed from His Path /And who receive guidance' (XVI. 125).

Teaching by questioning

One of the Qur'ānic methods of teaching is that of questioning. It consists in directing questions at the other party to help him discover or reach the answer to the problem for himself. It is one of the most modern methods of teaching but, at the same time, as old as Socrates. The Qur'ān uses it in a very convincing way:

> Say: 'To whom belong /The earth and all beings therein? /(Say) if ye know!' /They will say: 'To God.' Say: 'Yet will ye not /Receive admonition?' Say: 'Who is the Lord /Of the seven heavens, /And the Lord of the Throne /(Of Glory) Supreme?' /They will say: '(They belong) /To God.' Say: 'Will ye not /Then be filled with awe?' Say: 'Who is it in whose /Hands is the governance /Of all things, who protects /(All), but is not protected /(Of any)? (Say) if ye know.' They will say: '(It belongs) /To God.' Say: 'Then how /Are ye deluded?' /We have sent them the Truth: /But they indeed practise Falsehood! (XXIII. 84–90).

The use of parables, proverbs and similes

Parables, proverbs and similes are used in the Qur'ān to carry moral lessons which may play an important role in affecting sentiments and guiding human behaviour in daily life. The Qur'ān refers to the effects of parables by saying:

'And such are the Parables /We set forth for mankind, /But only those understand them who have knowledge' (XXIX. 43).

The commentaries on the Qur'ān, in particular that of al-Zamakhsharī, have sought to bring out the essence of the comparisons, metaphors and proverbs contained in it. So have specialized works on *i'jāz*, in particular that of al-Bāqillānī. Al-Suyūṭī devotes Chapter 53 of his *Itqān* to the phenomenon.[1]

Presentation of ideas in an enthralling rhetorical style

One of the effective educational methods which makes learning pleasant and attractive is the beauty of style and the charm of the language with which great ideas are presented. Arabic is a rich language which readily lends itself to rhythm and rhyme. The Qur'ān represents the highest and richest style ever achieved in the use of the Arabic language. It contains many moral stories, and much counselling and wisdom expressed in poetic descriptions, an enthralling style and sweet music. All these impress the hearer and arouse his noble sentiments. They influence the self and penetrate deeply into a man's soul, leading him towards goodness and right. At the same time, the rhythm and rhyme help the learner to memorize important stories and passages containing good counsel which can be treasured in the mind.

The style of the Qur'ān is of outstanding richness. Unfortunately no translation can ever reproduce the charm of the Qur'ānic language and style (see XXIX. 35; XXV. 68–69; XXVI. 69–89).[2]

Reward and punishment

The method of reward and punishment is one of the natural methods that no educator can do without at any time or in any place. No matter what one does in the field of education, one cannot go very far unless the child or adult knows that pleasant or painful consequences will result from his acts and behaviour. If he does good, he will attain pleasure and sweetness. If he does evil, he will taste pain and bitterness.

The Qur'ān reminds people of the two paths that lie open to them, the path of good deeds and virtue and the path of wrongdoing and vice. If one chooses the path of good deeds, happiness and bliss in this world and in the life hereafter will be the result. The Qur'ān depicts the bounty of heaven

1. Among the studies on this subject see T. Sabbagh, 1943. On the ironic aspects of some of these proverbs, comparisons and metaphors see A. Ḥifnī, 1978.
2. See C. Pellat, *EI*[2] art. 'Ḳiṣṣa. 1. The Semantic Range of *ḳiṣṣa* in Arabic'; M. Khalaf Allāh, 1965; J. Wansbrough, 1977.

(paradise) in the most beautiful and rich manner. If a person chooses the path of bad deeds, he should expect trouble in this world and chastisement in the life hereafter. The Qur'ān depicts the horrors of hell in the most terrible images. It reveals God's wrath towards unbelievers, tyrants, sycophants, the corrupt, the monopolizers, the arrogant, the miserly and the extravagant. It is one of the basic functions of education to help man choose the path of goodness in life – the path of love, mercy, co-operation, doing good to others and treating them well. The Qur'ān is clear in stating that God brings man to account for everything that he does, big or small, and that the reward will be commensurate with the act. Man will not be treated unfairly or unjustly.

Repentance and forgiveness

In spite of the great educational efforts that the Qur'ān prescribes for education of man, some people may still go wrong. The Qur'ān does not close the door in the face of those who go blindly astray and take the crooked path. The door is wide open before them if they return to the straight path by repenting, asking God's forgiveness and starting a new, clean life. Thus, we find that repentance and asking forgiveness is one of the most effective methods of reforming and re-educating people. It is the duty of the educator to exhort the wrongdoer to acknowledge his fault, repent and ask for forgiveness. Sin itself can have a positive function through this pedagogy of forgiveness: 'Say: "O my servants who /Have transgressed against their souls! /Despair not of the Mercy /Of God; for God forgives /All sins; for He is /Oft-Forgiving, /Most Merciful" ' (XXXIX. 53).

In conclusion, it is clear that the Qur'ān contains great educational riches in terms of aims, content and methods, coupled with transcendence, realism, inclusiveness and balance.

THE *SUNNA* AS A GUIDE TO ISLAMIC EDUCATION[3]

Next to the Qur'ān, the *sunna* is one of the major sources of Islamic education.

According to the Qur'ān, the Prophet Muḥammad was designated by God as a great teacher–educator. God in the Qur'ān says: '. . . We have sent /Among you an Apostle /Of your own, rehearsing to you /Our Signs, and sanctifying /You, and instructing you /In Scripture and Wisdom, /And in new Knowledge' (II. 151).

The Prophet himself was educated by God. He said of himself: 'My Lord educated me, and He educated me well' (Ibn Taymiyya, 1985, p. 275).

3. There are many bibliographies on education in Islam and in the Arab world, for example: V. S. Pantelidis, 1982, 5,653 entries.

The Prophet says of his message: 'Surely I was sent (by God) to complete the noble virtues' (al-Ghazālī, *Iḥyā'*, II, p. 258).

In several verses of the Qur'ān, reference to obedience to the holy prophets follows immediately after a command to obey God. The life, actions and sayings of the Prophet may be considered as an application and extension of the teachings of the Qur'ān. It was from the Prophet that Muslims learnt how to pray. His holy life is a noble model of social, moral and spiritual behaviour.

The compendium of the Prophet's pronouncements, the *Ḥadīth*, forms a great treasure of human wisdom and is the main source of Islamic law and the Muslim code of behaviour. These *ḥadīth*, on all aspects of life, form the basis of all Muslim jurisprudence. A number of them refer explicitly to education, and Muslim educators will always find in them an inspiring source of guidance.[4] These *ḥadīths* are an excellent guide and have always been an inspiration to Islamic educators. They not only emphasize the significance of knowledge but state that it is the duty of every Muslim to continue educating himself all his life. They also emphasize character formation, practical education, positive and social relations between the educator and those being educated, and the dignity of the teaching profession.

The Prophet's rich, noble and wise life provides humanity with a sublime model to be emulated by Muslim teachers. It is a demonstration of the educational teachings of the Qur'ān in social, moral and spiritual practices.

The Prophet Muḥammad was an educator in deed as well as in word, and thus the *sunna* becomes a basic source of Islamic education.

4. The following are a few of the well-known *ḥadīths* dealing with education: 'Seeking knowledge is an obligation on every Muslim.' 'Seek knowledge though it be in China' (al-Suyūṭī, 1934, I, p. 144). 'Seek knowledge from the cradle to the grave.' 'Wisdom is to be sought by the faithful. He will pick it up wherever he finds it.' 'Gain as much knowledge as you please, but, by God, you will not be rewarded for amassing knowledge until you act.' 'O God, I seek refuge in Thee from knowledge that is not useful.' 'Whoever is not merciful to our little ones and does not recognize the rights of our elders, he does not belong to us.' 'If we undertake an act, verily God loves us to be thorough and precise.' 'Knowledge is locked in a store and its key is questioning. Therefore, ask questions (and God will) bless you. Verily four will be rewarded: the questioner, the teacher, the listener and he who befriends them.' 'It behoves a person to have solitary sessions in which he meditates on his sins and asks for God's forgiveness for them.' 'Act for your present-day life as if you were to live for ever, and act for your next life as if you were to die tomorrow.' 'He who sees an evil should change it with his own hand. If he cannot, then with his tongue. If he cannot, then with his heart, and that is the weakest (measure) of faith.' 'One can never eat better food than that which is the fruit of one's own labour. God's prophet, David, used to eat from the labour of his hand.' 'Anyone who cultivates a plant will be rewarded by God as much as that plant bears fruit.' 'He is not a Believer who is full while his neighbour beside him is hungry.' 'The learned people are the heirs of the prophets.' 'The best people are the faithful and the learned.'

Islamic education: the test of history

In the first part of this study we considered the principles of the Qur'ān and the Prophet that influence Islamic education. We must now study how these principles were put into practice in the course of history, giving special attention to teaching and to educational institutions.

THE CULTURAL AND HISTORICAL FACTORS UNDERLYING ISLAMIC EDUCATION

The findings of research on education and instruction in the early days of Islam are still fragmentary but there are some works that lay a solid basis for a number of points.[5]

It should first be noted that Islam was not established on a *tabula rasa*. Far be it from us to minimize the changes in education brought about by Islam in its early days, but as Munīr-ud-Dīn Ahmed has rightly pointed out, the concept of *jāhiliyya* has been exaggerated.[6] It is primarily a religious notion (ignorance of the precepts of Islam), and the Arabs of the Arabian peninsula and the area bordering on the country of al-Shām (Syria) certainly had a culture of their own, as evidenced by their poetry, proverbs and wise sayings and by the 'Glorious Days of the Arabs' (*Ayyām al-'Arab*). One therefore has to guard against facile apologetics. It is not by disparaging one tradition that another is enhanced.

Three factors seem to have played a role in the emergence of Islamic education and instruction: the example of the Prophet, his Companions and the four Orthodox Caliphs, the pre-Islamic Arab heritage and the traditions of the surrounding civilizations.

The pre-Islamic heritage

Bedouin society had its own culture. It was for the most part transmitted orally, in the form of poetry, eloquence, edifying stories, wise sayings, the 'Glorious Days of the Arabs', genealogies, cosmology, astrology, knowledge of flora and fauna, etc. Modern anthropological studies demonstrate the error of the narrowly nationalist thinkers of the past, who tended to despise oral civilizations. One has only to consider the work of early Muslim collectors who went out among the bedouin to record the Arab lexicographical and poetic heritage and were struck by their fine use of Arabic, in which there was 'no trace of contamination'.

Prominent individuals in the towns would hold gatherings where lit-

5. There is an extensive bibliography in G. Makdisi, 1981, pp. 345–54.
6. M. Ahmed, 1968, p. 25.

erary talent was displayed and criticized, occasions that may well be viewed as the forerunners of the *majālis* of the classical era. Al-Maqrīzī reports that Ghaylān Ibn Salāma of the Thaqīf tribe used to hold a literary gathering in Ṭa'if once a week, at which poets would recite their verses and critics would pass judgement.[7] It is no accident that the Ṭa'if schools continued to enjoy a high reputation even under the Abbasid dynasty. The role played subsequently by Thaqafis in the founding of Baṣra is also well known. Moreover, the most highly reputed doctors in pre-Islamic Arabia were to be found in Ṭa'if. We shall be referring later on to the Thaqafi al-Ḥajjāj Ibn Yūsuf. Writing was relatively widespread, just as in Mecca. It is reported that the ten sons of 'Abd al-Muṭṭalib were able to write. The Meccan prisoners taken after Badr had to agree to become schoolteachers.[8]

Several episodes in the life of the Prophet, reported, *inter alia*, by al-Ṭabarī, depict him as having connections with men who were able to read, for example Jabr and Yassār; this is why he was accused of having Jewish and Christian informers. Mention is also made of Bal'ām, a Christian, and Ya'īsh, a slave–servant of the al-Mughīra tribe.[9]

Of course these ancient sources are very difficult to interpret, but the repetition of similar themes seems to vouch for the authenticity of the subjects dealt with. Are we to give credence to al-Balādhurī when he says that writing was first introduced into Mecca by Bishr Ibn 'Abd al-Malik al-Kindī al-Sakūnī? He took advantage of his frequent trips to the predominantly Christian town of al-Ḥīra to learn to write. In Mecca he is said to have taught Sufyān Ibn Umayya Ibn 'Abd Shams and Abū Qays Ibn Manāf Ibn Zuhra Ibn Kilāb to write. It was apparently thanks to these individuals and others that writing skills were passed on to the Arabs of Ṭa'if, Diyār Muḍar (in al-Jazīra) and Syria.[10] Contradictions none the less exist. How are we to reconcile al-Balādhurī's assertion that prior to the advent of Islam only seventeen Qurayshis were able to read with the report that 'Abd al-Muṭṭalib's ten sons had learned to write?[11] The art of writing was certainly a rare accomplishment in Mecca but no doubt more widespread than certain classical historians wished to admit, probably on apologetic grounds. As Muḥammad Ḥamidullah reports, 'There were even women who could write.' For example Shifā', a close

7. M. Hamidullah, 1939, p. 50, based on al-Maqrīzī, *al-Azmina wa'l-amkina*. On Sayyid Ghaylān's poetry, which was still known at the time of Abū 'l-Faraj al-Iṣfahānī, see H. Lammens, 1929, p. 150.
8. M. Abiad, 1981, pp. 144–7, the passage entitled: 'Le modèle de la Jāhiliyya'. On the Badr episode see al-Mubarrad, 1986, I, p. 395.
9. Al-Ṭabarī, 1954–1957, XIV, pp. 178–9; XVIII, pp. 183–4; on Tamīm al-Dārī, see *ibid.*, XXIV, pp. 177ff; Ibn Ḥajar, 1910, I, pp. 165, 183–4, 221–2; III, p. 670.
10. M. Abiad, *op. cit.*, p. 145 and notes pp. 340–1.
11. H. Lammens, 1924, p. 219, n. 5.

female relative of 'Umar, is said to have taught writing to Ḥafṣa, the daughter of the second caliph. Moreover, Ibn Qutayba writes that Ẓulma, a 'prostitute' of the Hudhayl tribe, attended the tribe's school as a child. Whatever the 'historical truth' of these details, it appears that the Arabs were not unfamiliar with writing prior to Islam.[12]

Indeed there was what might be described as a small intellectual community in Mecca. It is reported that Waraqa Ibn Nawfal, a cousin of Muḥammad's first wife, translated the Bible into Arabic. Another woman, Qutayla, Waraqa's sister, is supposed to have read the 'Holy Scriptures', an indication that women's status under the *jāhiliyya* was perhaps not quite so humiliating as is sometimes asserted. Al-Ḥārith Ibn Kalada is said to have practised medicine in Mecca and to have written a work on hygiene.[13]

Even if they were unable to read and write, the Arabs, like every other people, certainly had a sense of education.

Their code of honour and idea of the perfect human being helped to mould the individual from early childhood. We need only refer the reader to Bichr Farès' fine book *L'bonneur chez les Arabes avant l'Islam,*[14] which gives a good description of the Arabs' ideal virtues: resistance to oppression, truth to one's word, courage, inviolability of the home, freedom, non-captivity of free women, protection of the *jiwār* (neighbourhood), generosity, hospitality, jousts of honour, etc.

Lastly, it need scarcely be repeated that the Arabian peninsula was not somehow isolated from all outside influences. This would have been inconceivable in a world in which trade with other countries, and in particular transit traffic, played such an important role.[15] It would therefore be wrong to overlook the contribution of neighbouring civilizations and groups, which we shall now briefly review.

The example of neighbouring civilizations

Neighbouring regions which were soon to become conquered territories (Syria, Iraq, Persia, the areas bordering on Byzantium) had developed prestigious civilizations. Some of their models of education and instruction were

12. M. Hamidullah, 1979, II, pp. 684–9.
13. *Ibid.*, pp. 687–8, No. 1228, with references.
14. B. Farès, 1932, especially pp. 60–99 and 150–63.
15. On the presence of Christianity among the Arabs prior to Islam, see J. S. Trimingham, 1979, with a well-documented bibliography, pp. 317–29, and R. Dussaud's classic work, 1955. The non-insularity of the peninsula is borne out, *inter alia*, by the terms of non-Arabic origin in the Qur'ān and the *sīra;* see M. R. al-Ḥamzāwī, 1986; pp. 83–98: a critical revision of al-Suyūṭī's *al-Muhadhdhab fīmā waqa'a fī'l-Qur'ān min al-mu'arrab,* ed. al-Tuhāmī al-Rājī al-Hāshimī, Rabat, n.d. (after 1980). On the *sīra,* see the dissertation by A. Hebbo, 1984.

taken over and adapted for Islamic purposes after a process of restructuring, as is always the case with cultural exchanges and borrowings.[16]

A large number of prominent individuals of different ethnic and religious backgrounds converted to Islam, bringing with them their customs and experience in education. Without hesitation the Muslims took advantage of their knowledge and also that of the unconverted. For example, a *fatwā* of Jacob of Edessa (Ya'qūb al-Rahāwī) made it possible for the Christian clergy to impart higher education to young Muslims. Khālid Ibn Yazīd, grandson of Mu'āwiya, had recourse to Greeks and Syriacs to complete his philosophical education.

'Adī Ibn Zayd al-Tamīmī (d. 590) of al-Ḥīra had learned Arabic in an Arab elementary school in the region and Persian in a Persian elementary school. He was chancellor and Arabic translator at the court of Chosroës. Salamān al-Fārisī (d. 39/656) is said to have learned Persian in a school of Rāmhurmuz in the Ahwāz region.

The caliphs themselves did not hesitate to seek knowledge wherever it was to be found. According to al-Mas'ūdī, Mu'āwiya would get someone to recite to him at night from the 'Glorious Days of the Arabs' and the history of the Persians and other ancient peoples.[17]

Early Islam

The time of the Prophet

From the very beginning of Islam the mosque was the place for instruction in the new faith.[18] Shortly after his arrival in Medina, the Prophet had an area with a rudimentary building fitted out for cultural gatherings. One of the three areas into which it was divided (*ṣuffa*, i.e. 'bench', or *ẓulla*, i.e. 'covered area') was used as a school. Muḥammad himself gave religious instruction there, but he assembled a group of tutors to teach writing to beginners and familiarize them with the Qur'ān. For example, 'Ubāda Ibn al-Ṣāmit taught writing and the Qur'ān[19] and appointed 'Abdallāh Ibn Sa'īd Ibn al-'Aṣ to 'teach wisdom'.[20] We have already noted that the prisoners of Badr who were unable to pay the ransom of 4,000 dirhams could teach writing instead to groups of 10 boys.[21]

16. See E. Rabbath, 1980, in particular 'Arabia in Travail', pp. 127–223, with numerous annotated biographical guidelines.
17. M. Abiad, *op. cit.*, pp. 147–52.
18. M. Hamidullah, *op. cit*, II, pp. 691–702; Ibn Sa'd, *Ṭabaqāt*, ed. Sachau, 1/II, pp. 3–4, ed. 'Abbās, I, pp. 239–41.
19. Ibn al-Athīr, 1970 *et seq.*, III, p. 160, No. 2789.
20. *Ibid.*, III, p. 262, No. 29/8; Ibn Ḥabīb, *Kitāb al-Muḥabbar*, ed. I. Lichtenstaedter, p. 460.
21. Abū 'Ubayd, 1968, p. 126, No. 309; Ibn Sa'd, *Ṭabaqāt*, 1/II, p. 14; 17/II, pp. 18, 22.

The anecdotes about those known as the *ahl al-ṣuffa*, embroidered with legendary material, have turned them into the first Muslim mystics.[22] The *ṣuffa* was soon unable to cope with the demand for instruction and other small schools were opened. Mention is invariably made of the 'House of Readers' in the home of Makhrama Ibn Nawfal in Medina, who was described as a man of learning, moreover, in the 'Glorious Days of the Arabs' and in genealogy.[23]

A large number of statements and maxims on education and knowledge attributed to the Companions and the early Muslims have come down to us.

Here, for example, are some sayings attributed to Imam 'Alī, cousin of the Prophet and the fourth caliph: 'Teach your children in a manner different from that in which you were taught, for they were created for times other than your times'; 'No riches like the riches of the mind; no poverty like the poverty of ignorance; no heritage like culture; no support like consultation. Surely one should not be ashamed, when asked about something one does not know, to say: I don't know. And no one should be ashamed, if he does not know a thing, to learn it. People are enemies of what they do not know.' Or again: 'O Kumayl, knowledge is better than material wealth. Knowledge protects you, and you protect your wealth. Knowledge is the ruler; wealth is the ruled. Wealth decreases by spending; knowledge is enriched by spending' (Imam 'Alī to Kumayl).

The following recommendations from 'Utba Ibn Abī Sufyān to 'Abd al-Ṣamad, the tutor of his sons, well reflect the spirit of the times with regard to education:

> Let your first step in reforming my sons be the reformation of your own self, for their eyes are fixed on yours. A beautiful thing to them is what you approve of, and an ugly thing to them is what you consider to be ugly. Teach them God's Book, but do not force them to it, so that they may not be bored by it. But do not neglect it, so that they will not forget it. Make them recite the purest of poetry and the noblest *ḥadīths*. Do not take them from one subject-matter to another before they master the first, for the crowding of topics misleads understanding. Teach them the biographies of wise men and the character of cultured men. Keep them away from talking to women. Impress them with my authority and punish them on my behalf. Be to them like a doctor who does not rush to give a medicine before diagnosing the disease. Do not use me as an excuse, for I have relied on your competence. Increase your effort in cultivating them, and I will increase my reward to you.[24]

22. W. M. Watt, *EF* art. 'Ahl al-Ṣuffa'.
23. Ibn al-Athīr, *op. cit.*, V, pp. 165–6, No. 4791.
24. Quoted in al-Jāḥiz, *al-Bayān wa'l-tabiyīn* [Expression and Explanation].

The Umayyad period

Some critics, in particular Aḥmad Amīn, maintain that the Umayyads did not make an active contribution to scientific development and that they were interested only in pre-Islamic poetry and pre-Hegiran customs.[25] This theory is far from being shared by all researchers.[26] Indeed, learning seems to have advanced during the Umayyad period. To mention only one example, 'Umar Ibn 'Abd al-'Azīz (99–102/717–720) had a marked interest in Greek technology and science; according to Ibn al-Nadīm, he ordered that a Greek text on medicine be translated into Arabic.[27] We know that links between the two civilizations were maintained by Syriac-speaking Christians, many of whom served as officials under the dynasty. The channels of communication between the two civilizations were not always 'direct'. Manṣūr Ibn Sarjūn's son Sergius (father of the great Melchite theologian St John Damascene) and his grandson Manṣūr Ibn Sarjūn Ibn Manṣūr served as ministers of finance under Mu'āwiya and 'Abd al-Malik. The Damascene was brought up at the court of Damascus and was the friend of Yazīd, successor to Mu'āwiya, and of the poet al-Akhṭal. It was a very lively intellectual community. The inter-Christian theological discussions prefigured to some extent the Muslim *kalām* disputes.[28]

We also know of the impact of Persian literature on the Arab world as early as the Umayyad period. Suffice it to mention Ibn al-Muqaffa', and he was not the only one, although a good deal of work remains to be done in this field. Al-Mas'ūdī, for example, reports that when he was in Iṣṭakhr in Persia in 303/915, he saw a book there on the Sassanid emperors translated from the Persian; the translation was apparently ordered by the caliph Hishām Ibn 'Abd al-Malik. This information was gathered during the Abbasid period by the great chroniclers such as al-Ṭabarī.[29]

Intellectual curiosity in the Umayyad period seems to have known no limits or taboos. It is reported, for example, that the governor of al-Jazīra, 'Amr Ibn Sa'd Ibn Abī Waqqāṣ al-Anṣārī, had the four gospels translated from the Syriac during the patriarchate of John of Sedras, Syriac Patriarch of Antioch. According to the Syriac historian Bar Hebraeus (Ibn al-'Ibrī, d. 685/1286), the translation was done by two Arabs belonging to the Ṭayyi', Tanūkh and 'Uqayl tribes.[30]

25. A. Amīn, 1938, pp. 197–8.
26. See M. A. Talas, 1933, pp. 2–3.
27. L. E. Goodman, 1983, p. 473. On medical science under the Umayyads, see F. Klein-Franke, 1982, pp. 32–7.
28. R. V. Ebied, 1983, pp. 479–80; P. Khoury, 1957–1958, pp. 1–47; 'A. Badawī, 1968, deals mainly with the Abbasid period.
29. C. E. Bosworth, 1983, pp. 483–96.

These intercultural encounters had a certain amount of influence on contemporary education and instruction. These men's Muslim beliefs did not prevent them from taking an interest in the intellectual products and faith of others, even when they conflicted in some respects with their own. Education may thus be seen as a continuing successful grafting. In order to learn, one has to be open to the outside world. In order to give, one must first be able to receive.

The Abbasid period

The Abbasid period is renowned for the tremendous flourishing of the various branches of knowledge in the Islamic world. It was under that dynasty, especially from the second to the fourth centuries of the Hegira, that the great educational institutions were established. They will be dealt with elsewhere and we shall consider only one aspect of the subject here: the attention given by the Abbasid caliphs to the education of their progeny.

The caliphs were particularly concerned with their children's linguistic education. Al-Mahdī dismissed his son al-Rashīd's tutor because he considered him a poor grammarian. The tutor had given the imperative mood of to pick one's teeth as *astak*. Al-Mahdī then consulted 'Alī Ibn Ḥamza al-Kisā'ī, to see whether he was a better man for the job. When al-Kisā'ī replied *suk*, the caliph engaged him on the spot and had him paid 10,000 dirhams.[31] He also kept an eye on the progress of his son Mūsā, to whom he had assigned Muḥammad Ibn Muslim Abū Sa'īd al-Jazarī as tutor.[32]

Generally speaking, the caliphs took a keen interest in the major intellectual and religious debates of their time, for example the debate that took place in the presence of al-Ma'mūn between Bishr al-Marīsī and 'Abd al-'Azīz Ibn Yaḥyā al-Makkī al-Kinānī. Compared with Ibn Ṭayfūr's description in his *Kitāb Baghdād*, the text of this debate recorded in the *Kitāb al-Ḥayda* attributed to al-Kinānī is probably apocryphal. But it certainly took place in al-Ma'mūn's presence.[33]

In this kind of intellectual atmosphere, it is not surprising that problems of education and instruction were given high priority by political and religious leaders, and that the various educational authorities and institutions had a fertile soil in which to develop, at least so long as the society continued to

30. R. V. Ebied, *op. cit.*, p. 500.
31. Al-Baghdādī (al-Khaṭīb), 1931, XI, p. 406.
32. *Ibid.*, III, p. 254. On the overall question of the education of princes under the early Abbasids, see M. Ahmed, *op. cit.*, pp. 46–51.
33. Al-Kinānī, 1983, p. 78. There is a much better critical edition by Jamīl Ṣalība, Damascus, 1964. See the instructive comments by J. van Ess, 1965, p. 101; *idem*, 1977, pp. 30, 33–4.

resist the evils of stagnation and the non-creative reproduction of material inherited from the ancients.

EDUCATIONAL INSTITUTIONS DURING THE CLASSICAL PERIOD

The modern division of education into elementary and higher levels is not fully applicable to the structures of medieval education, either in Islam or in the West, because of the many connotations relating to the division of knowledge in modern times. We shall nevertheless use the distinction here for convenience of presentation.

'Elementary' education

We do not know exactly when the *kuttāb* (elementary school) came into being, but we know that it spread under the Umayyads in the wake of the conquering armies and, as we saw, was partly based on equivalent institutions among the Aramaic Christians and the Persians. However, the structure and basic teaching methods seem to have been borrowed from the Byzantine primary school.[34]

One must be wary of viewing the *kuttāb* as a mere continuation of the *ẓulla* of Medina discussed above. As Fazlurrahman has noted,[35] the teachers in early Islam were mostly non-Muslims, chiefly Jews and Christians. This is borne out, moreover, by the subsequent controversies over the possibility of entrusting Muslim children to non-Muslim teachers.[36]

Elementary education was self-contained and there was not necessarily an organic link, as in modern times, between the 'elementary' and 'higher' levels; in other words, elementary education was not automatically considered as a stepping-stone to higher education. At a relatively early stage in Islam, 'elementary education' and 'higher education' were supplemented by two other forms of education. The first of these was princely education, for future leaders and rulers. In addition to religious instruction it included oratory, literature and so on. The second type of education gave rise to the later higher-level schools through the intermediary of circles (*ḥalaqāt*) of listeners or disciples gathered around a teacher.[37]

In this field, however, we can only develop plausible theories in view of the rudimentary state of research. We still lack the necessary monographs on elementary education based on the information to be gleaned from the *kutub al-rijal*. While we have a satisfactory study of education based on al-Khaṭīb al-Baghdādī's *Tārīkh Baghdād*, that of Malake Abiad drawn from Ibn 'Asākir's

34. G. Lecomte, 1954, pp. 324ff; J. M. Landau, *EF* art. 'Kuttāb'.
35. A. Fazlurrahman, 1966, p. 181.
36. A. S. Tritton, 1957, p. 19.
37. A. Fazlurrahman, *op. cit.*, pp. 181–2.

Tārīkh madīnat Dimashq is disappointing in many respects because of the lack of an appropriate statement of the problems, of sufficient background reading outside the Islamic world and of theoretical reflection on how to approach the subject. The recent 23-volume edition of al-Dhahabī's *Kitāb Siyar a'lām al-nubalā'* should encourage researchers to study education in the light of this highly informative work.[38]

We have more plentiful information on the practical organization of the *kuttāb*. As basic education was related to religious instruction, the school was generally attached to a mosque. Many of these establishments were founded by philanthropists through religious endowments (*awqāf*).

The teachers were often badly paid. Indeed some of them offered their services free of charge. According to al-Jāḥiẓ (d. 255/868), a teacher who knew prosody, grammar and the rules of succession, who could write well, was good at arithmetic, knew the Qur'ān by heart and was able to recite poetry had to be content with 60 dirhams, while someone who had nothing to offer but his eloquence could demand as much as 1,000 dirhams. Ibn al-Sikkīt (d. 244/858) together with his father taught the children of the common people in the Darb al-Qantara in Baghdad; being unable to make a living in this way, he began to study grammar and was then able to charge 10 dirhams a lesson. He was finally introduced to Muḥammad Ibn 'Abdallāh Ibn Ṭāhir and taught the children of prominent members of his entourage first for 500 and then for 1,000 dirhams. The best teachers were quite frequently employed in the private *kuttābs* of the élite or as tutors for their children.[39] The children of Ja'far al-Ṣādiq, for example, had a tutor and Ibn Abī 'l-Dunyā was tutor to al-Muktafī.[40]

With regard to the designation of teachers, there does not seem to have been a strict distinction between the *mu'allim* and the *mu'addib*. J. M. Landau writes that 'the teacher was called *mudarris* or *mu'allim* and later on *mu'addib*'.[41] In our view, this assertion is not justified. Yet again we must deplore the lack of a historical dictionary of the Arabic language. It is the only tool that could be used to tackle this kind of question. It may be noted, however, that al-Jāḥiẓ uses the two terms indiscriminately or interchangeably when referring to the education of the sons of the great.[42] Research also needs to be undertaken on another term, *al-muktib*, which basically refers to the person who teaches writing.

One may assume that the degree of learning and the level of qualification of these teachers were highly varied. Some had attained a satisfactory level of

38. Al-Dhahabī, 1981.
39. Al-Baghdādī (al-Khaṭīb), *op. cit.*, XIV, p. 273.
40. A. al-Fayyāḍ, 1972, pp. 116–17.
41. J. M. Landau, *art. cit.*, p. 572b.
42. A. al-Fayyāḍ, *op. cit.*, pp. 116–18.

general culture, while others had not progressed beyond mediocrity. The tutors (*mu'addib*) of the caliphs, leading public officials and prominent members of the wealthy classes were often renowned intellectuals, as we have already seen.[43]

The method of teaching, based essentially on memory and rote learning, stemmed from the assumption that remained unchallenged for most of antiquity and the Middle Ages that the teacher is a 'savant', a possessor of knowledge that has to be transferred to the child's mind, which was viewed as a *tabula rasa* on which to make entries.[44] In line with this authoritarian moralistic approach to education, corporal punishment was naturally the order of the day and was regarded as a normal teaching aid; however, it was recommended that the type of punishment should be adapted to the nature of the fault and the character of the student punished.[45]

Before leaving the subject of elementary education, it should be noted that our information is still very fragmentary; existing studies of the subject are often disconnected and concerned with trivial details. A basic prerequisite for any further progress in research is the preparation of a semantic study of the vocabulary used, systematically compiled to produce a historical vocabulary of the subject. In addition, as we have already noted, more monographs on education must be written on the basis of the *kutub al-rijāl*, collections of *adab* such as the *Kitāb al-Aghānī*, the *'Iqd al-fartd*, etc. and notes on grammarians and on theologians and lawyers.

'Higher' education

We are better documented on this subject, although there is also a need for studies based on accurate historical observation. The authors do not always draw a distinction between facts relating to the second/eighth and the fifth/eleventh centuries! We owe a great deal, in particular, to the works of George Makdisi in this field.[46]

It seems more logical, before considering educational authorities and institutions, to discuss the various types of 'study circle', since education could be imparted in a mosque, subsequently in a *madrasa*, or elsewhere, even in the street. We shall take as our basis the data gathered by Munir-ud-Dīn Ahmed from the *Tārtkh Baghdād*.

43. *Ibid.*, pp. 120–6.
44. A. S. Tritton, *op. cit.*, pp. 19–20.
45. *Ibid.*, p. 18.
46. G. Makdisi, 1981. See, however, the critical comments of Norman Daniel in *MIDEO*, XVII (1986), pp. 239–45.

Types of 'study circle'

The *ḥalqa* was the main feature of Muslim education before the creation of the *madrasa*. The practice of forming a circle around a teacher in a mosque or elsewhere still exists in some places today. The change that followed the introduction of the *madrasa* affected the general organization of education rather than the form of the circle. This kind of instruction was not restricted to theology but also included grammar. Al-Khalīl's 'circle' may be mentioned as just one example. The *ḥadīth* circles, on the other hand, could assume a variety of forms. They were seldom permanent, but there are instances of regular circles, for example that of Jāmi' al-Ruṣāfa, which was held every Friday. However, the presiding teacher was not always the same person. The first permanent circles may have been circles of law. For example, al-Marwazi (d. 340/951) had a regular circle at Jāmi' al-Manṣūr. It was there that al-Ash'arī (d. 330/941) gave lessons on Fridays.[47] There are also many references to circles held in the homes of teachers or scholars.

The *majlis*, or assembly, its type usually specified by a possessive phrase, might be presided over by a prominent individual, for example *majlis al-Nabī* (the Prophet's assembly). Al-Shāfi'ī's assembly, for instance, was first held at his home, then in the al-Manṣūr mosque in Baghdad and later on in Cairo. But the *majlis* could also be a 'class': a grammar class or a *ḥadīth* class.[48]

The '*ḥadīth*' classes could be either permanent or occasional. The former were run by scholars who had specialized in that branch of Muslim learning. They were held about once a week and could run for several years. The occasional classes were given by scholars who had few traditions to transmit. The number of participants in these classes was sometimes so great that the accuracy of the figures must be questioned in some cases. 'Aṣim Ibn 'Alī's class could not possibly have been attended by between 100,000 and 120,000 students![49]

The *majlis al-tadrīs*, or 'teaching classes', could deal with law, grammar and other subjects (*majlis al-naḥw/al-fiqh*). The difference between them and the *ḥadīth* classes was that in the former the teacher was not bound by pedagogical precepts, whereas in the latter the rules of educational progress were observed, which probably accounts for the name: *majlis al-tadrīs*.[50]

The *majlis al-munāẓara*, or debate, was obviously not a form of regular education. Its primary aim was not educational; it was rather an occasion for rivalry among the learned. Some of the classes were open to students. Al-Ma'mūn is known to have revelled in this kind of event. For example, he

47. M. Ahmed, *op. cit.*, pp. 52–4. On the *ḥalqa*, see also G. Makdisi, *op. cit.*, p. 20.
48. M. Ahmed, *op. cit.*, pp. 55–6; on al-Shāfi'ī, see al-Baghdādī (al-Khaṭīb), *op. cit.*, II, pp. 56–73. On the notion of *majlis*, see G. Makdisi, *op. cit.*, pp. 10ff.
49. M. Ahmed, *op. cit.*, pp. 56–8.
50. *Ibid.*, pp. 58–9.

asked the chief judge Yaḥyā Ibn Aktham to assemble a group of lawyers and other scholars for a debate to be held in his presence. The caliph's example was often followed by the ministers or leading officials. Other debates were organized for students. Abū Ḥanīfa is said to have encouraged inter-student debates.[51]

Mention should also be made of the *majlis al-mudhākara* (word-for-word memorization and discussion of traditions among students), the *majlis al-shu'arā'* (poets' assembly), the *majlis al-adab* (assembly on literary, non-religious subjects) and the *majlis al-fatwā wa'l-naẓar* (assembly on legal decisions), etc.[52]

Some teaching methods

The scope of this work does not permit us to cover all aspects of the question of teaching methods. We shall therefore confine ourselves to a brief description of those we consider most representative, in particular for the transmission of the *Ḥadīth*. Obviously, the different 'circles' or 'assemblies' we have just mentioned served as channels for the transmission of knowledge by virtue of their organizational structure and the subjects dealt with.

From this standpoint, the teaching or rather transmission of the *Ḥadīth* is highly representative. The details of the terminological discussions do not concern us here: the terms used and the value attributed to each method vary from one author to another and also from period to period. This diversity is reflected, *inter alia*, in the well-known work by al-Khaṭīb al-Baghdādī: *al-Kifāya fī 'ilm al-riwāya* [Compendium on the Science of Transmission].[53]

Listening: this was considered to be the best method for passing on the traditions. The teacher recited them, from memory or with the help of notes, to an audience of varying size or even to a single individual. The students were not supposed to take notes. They were 'auditors' in the strict sense of the term.

A closely related method was that of 'presentation' (*'arḍ*) or 'recitation in

51. *Ibid.*, pp. 60–72.
52. *Ibid.*, pp. 73–85.
53. Al-Baghdādī (al-Khaṭīb), 1970. There is a vast amount of literature on the subject, for example al-Suyūṭī, 1966, 1979; al-Nawawī's *Taqrīb* has been translated into French with numerous notes by M. Marçais in *JA*, 16 (1900), pp. 315–46, 478–531; 17 (1901), pp. 101–49, 193–232, 524–40; 18 (1902), pp. 61–146; Nūr al-Dīn 'Itr, 1979; *idem*, 1977; G. Vadja, 1975, pp. 2–8; R. Gaspard and M. Fitzgerald, 1969, pp. 67–83; this excellent introduction for beginners and advanced students also includes an index with the page numbers of the 'Six Books' (*al-kutub al-sitta*). See also J. Robson, *EI²* art. '*Ḥadīth*'.

a teacher's presence' (*al-qirā'a 'alā shaykh*): the student recited from the teacher's text, from a copy or from memory.

The 'presentation' could also be a lesson given by someone other than the teacher, usually a student designated by the teacher or chosen by the other students.

Permission (*ijāza*): this could be of two kinds, with numerous variants depending on the authors. Teachers or authorized transmitters gave permission to transmit one or more texts. But they could also authorize the transmission of unspecified works, in which case they would say: 'I allow you (in turn) to transmit everything that I am authorized to transmit to you.' The authorized transmitter would then use expressions such as 'so and so informed me' (*akhbaranī*) or 'so and so gave me permission' (*ajāzanī*).

Mention should also be made of the process of 'handing over' (*munāwala*), whereby teachers handed over the original text containing traditions they had heard or a copy collated with the original; of 'writing' (*kitāba* or *mukātaba*), whereby teachers made a copy of their book or transmissions; of making a 'will' (*waṣiyya*): before going on a journey or before death, teachers bequeathed one of their booklets of traditions to an individual; and of 'invention' (*wijāda*): a person who came into possession of the manuscript of the final transmitter was entitled to use the document thus 'found'.[54]

These were the principal methods of receiving transmitted knowledge (*taḥammul al-'ilm*). To complete the picture, an important place must be assigned to 'dictation' (*imlā'*) in the different branches of knowledge. The teachers dictated from their notebooks or books, although many of them preferred to dictate from memory. In the case of large audiences, they enlisted the help of one or more assistants (*mustamī'*). The texts of some of these dictation sessions have been preserved and published.

A student's education in the Middle Ages, in both the Muslim world and the Christian West, involved a certain amount of travel; instead of staying in one place, it was customary to set out in quest of teachers of high repute, wherever they might be found. In Islam, this practice was very widespread, to the extent that it became a veritable 'institution': 'the journey in search of knowledge' (*al-riḥla fī ṭalab al-'ilm*).[55] We shall see further on, moreover, that the emergence of the stable *madrasa* is perhaps paradoxically related to this journey.

Instead of giving a general description of the *riḥla fī ṭalab al-'ilm*, as has been done so many times before, we propose to consider the individual case of a great third-century scholar, the exegetist, historian and lawyer Abū Ja'far Muḥammad Ibn Jarīr al-Ṭabarī (224–310/839–923).

54. The term 'invention' is used in the now obsolete sense of finding something that already exists.

55. Al-Baghdādī (al-Khaṭīb), 1975; Abū Hilāl al-'Askarī, 1986.

The journey in search of knowledge: the case of a third-/ninth-century scholar[56]

In July 855 (Rabī' I, 241) or in the following months, a young man aged 18 at the most arrived in Baghdad in the hope of attending Aḥmad Ibn Ḥanbal's classes in *Ḥadīth* and Muslim law, but the first thing he heard on arriving was that the teacher had just died and had in any case given up teaching some months before his death. This episode in Ṭabarī's life is characteristic of the fate of scholars in the classical period, who did not hesitate to undertake long and often perilous journeys on unsafe roads to become the pupils of a renowned teacher. How interesting it would be if we could retrace Ṭabarī's itinerary in detail from his native town of Āmul in Tabaristan to Iraq and then to Egypt via Syria, with his various wanderings within those regions, an experience that played an important role in his intellectual development.

By his own account, his education began in Āmul. At the age of 7 he already knew the Qur'ān by heart; at 9, he was writing down the traditions or rather noting them down from a teacher who then corrected his disciple's efforts. Having exhausted the potential of the local teachers, he travelled to Rayy, 'commuting' with fellow-students between the town itself, where he took lessons in *Ḥadīth*, Qur'ānic exegesis and the life and military campaigns of the Prophet (*maghāzī*) from Muḥammad Ibn Ḥumayd al-Rāzī (d. 248/862), and a neighbouring village, probably Dūlāb, to attend the classes of Aḥmad Ibn Ḥammād al-Dūlābī on Ibn Isḥāq's book *Kitāb al-Mubtada' wa'l-maghāzī*. He also attended classes given by other teachers, but these details are of minor importance.

Not yet content, he travelled on to Baghdad but having learned of Ibn Ḥanbal's death he cut short his stay and headed for Baṣra. The list given by Yāqūt al-Ḥamawī of the teachers he attended is only a pale reflection of his student activities in the Muslim metropolis.

After a short stay in Wāsiṭ, Ṭabarī moved on to Kūfa, the cradle of Shī'ism. The town was already distinguished by such great names as Abū Yūsuf (d. 182/789) and al-Shaybānī (d. 189/804) for law, Hishām Ibn Muḥammad al-Kalbī (d. 206/821) and al-Suddī al-Kabīr (d. 128/745) for exegesis, Abū Miḥnaf (d. 157/773), one of the first historiographers, and 'Āṣim, Ḥamza and al-Kisā'ī for Qur'ānic readings. Ṭabarī eagerly drew on all this knowledge transmitted to him indirectly.

Back in Baghdad, he was influenced by the teachings of al-Za'farānī (d. 260/874). It was during his classes that Ṭabarī copied the book of al-Shāfi'ī. Al-Za'farānī was reputed to be the soundest transmitter of the doc-

56. The following section is based essentially on Yāqūt al-Ḥamawī, 1938, XVIII, pp. 40–94; Ibn 'Asākir, *Tārīkh madīnat Dimashq* (manuscript) and al-Ṭabarī, 1879–1901, pp. lxix–xcvii; al-Dhahabī, *op. cit.*, XIV, pp. 267–82, with numerous references to onomastic sources, p. 276, note 1.

trine of the first period of al-Shāfi'ī (*athbat ruwāt al-qadīm*). There were also teachers of Ḥanbalism, other branches of law and of course *Ḥadīth*, exegesis and historiography. Moreover, Ṭabarī had already earned a reputation as a sound grammarian and a connoisseur of poetry, accomplishments he had picked up in childhood and adolescence, at home and on his travels.

He then visited Beirut, Damascus and several other towns in that region, advancing still further in the different branches of knowledge of his day. In Egypt he received instruction from al-Rabī' Ibn Sulaymān al-Murādī (d. 270/883) on the doctrine of the second period of al-Shāfi'ī (*al-jadīd*). He also completed his training in Mālikī law with the sons of 'Abdallāh Ibn 'Abd al-Ḥakam (d. 214/869). He then returned to Baghdad to become a teacher himself.

We have mentioned the names of only a few teachers here, whereas an impressive number were involved. What is important is the phenomenon of the travelling student, so typical of a scholar's education in the classical period. Student travels were frequently combined with trading. The scholars would peddle a variety of wares to earn their living.

We mentioned above that the institution of the *madrasa* was perhaps in some way connected with the journey in search of knowledge. We shall now expand on this point.

The institution of the madrasa

The birth of any institution is a rich source of information on its essential features: hence the keen interest shown in the origins of the *madrasa*.

The origins of the *madrasa*

Different approaches may be adopted to this question. One may first investigate the types of outside influence contributing to the emergence of the institution. It has rightly been noted in this connection[57] that George Makdisi, in his fundamental study, failed to take account of the heritage of Graeco-Roman antiquity, which initially played an important role in the development of educational institutions in Islam just as in the West. Independently of each other and through frequently different channels, Islam and Christianity owe a great deal to the educational heritage of antiquity.

This shared point of view is not incompatible with the internal origins of the institution. Borrowings can quite conceivably coexist with originality. Moreover, all borrowings (and there is no civilization that does not borrow) are transformed in the new cultural setting.

57. G. Makdisi, *op. cit.*, and B. Spuler's brief review in *Der Islam*, LX (1983), p. 327. See also J. Pedersen [G. Makdisi], *EI²*, art. 'Madrasa'.

With regard to the *madrasa*,[58] the earliest research is influenced by Ribera y Tarrago's theory (1907) that it was institutionalized by Sunni orthodoxy as a means of propaganda against the Shī'ites or Karrāmis. This view, based on the foundations laid by the great Seljuk vizier Niẓām al-Mulk in the middle of the fifth/eleventh century, still influenced the works of J. Pedersen (1929) who, following Max van Berchem, stressed the private status of the first foundations. But whereas Barthold was reminded of Buddhist monasteries, Pedersen considered that the *madrasa* developed from educational activities in the mosque.

In 1965 R. N. Frye published a facsimile of the *Tales* of Nishapur, which shed new light on the *madrasa*. Our oldest reliable source of information on the *madrasa* dates from 325/937: the fire in the Madrasa-ye Fārjak in Bukhāra. This confirms the private status of the earliest foundations; in some cases, the *madrasa* was actually established in the founder's home.

They were not all private, however. Some were intended for the 'people of the *Ḥadīth*' (or *ahl al-'ilm*) and some were associated with a mosque. The former were often built by a teacher who lived and taught in the *madrasa*, for example the establishment of 'Abū 'Alī al-Ḥasan Ibn Dāwūd al-Samarqandī (d. 395–1005). Others were built beside or on the site of a tomb or a mausoleum.

In the case of Khurāsān, Heinz Halm has shown that many of these establishments were linked with the journey in search of knowledge which, as we have seen, had certain connections with trade. It emerges from André Godard's study (1951) that the distinctive feature of the *madrasa* was not primarily its teaching function, because instruction was also available in the mosques and elsewhere, but its close relationship with the 'quest for traditions' (*ṭalab al-'ilm*). Lodgings had to be provided for the students and teachers or travelling scholars and the *madrasa* combined this function with that of teaching. Moreover, the construction of such buildings required funds for the establishment of a *waqf* donation, and it appears that the origins of the *madrasa* are bound up with the economic and political ascent of prominent members of the wealthy classes or 'patricians', who acted as patrons.

Some famous establishments

Higher education flourished in this period of ascent of the Muslim civilization. The Qur'ān, the *Ḥadīth*, jurisprudence, the Arabic language and other

58. The following is based essentially on H. Halm, 1977, pp. 438–48, which contains the bibliographical references mentioned in the following passage. For a review of the state of research on the origins of the *madrasa*, see also G. Makdisi, *op. cit.*, Appendix A, pp. 292–311.

auxiliary subjects were taught in well-known mosques throughout the Muslim world, such as those of Kūfa and Baṣra (in Iraq), the Umayyad mosque (in Damascus), al-Azhar (in Cairo), 'Uqba (in Kairouan), al-Zaytūna (in Tunis), Qarawīyyīn (in Fez), Beoband (near Saharanpur in India) and so on.

A professor might use a mosque, his own residence or an ascetic sanctuary (*zāwīya*) as a place for teaching. Scholarly research could be carried out in libraries and institutions.[59] Several institutions like the House of Wisdom (*Bayt al-Ḥikma*)[60] were established in the Muslim world. Literary, philosophical and theological discussions and debates often took place in the salons of well-known dignitaries or even in bookshops.

In the fifth/eleventh century there appeared colleges of a new type for higher learning. They were called *Niẓāmīyya* after Niẓām al-Mulk.

The Niẓāmīyya[61] College of Baghdad was established in 459/1067 and great scholars like al-Ghazālī and 'Umar al-Khayyām taught there. The new features of these colleges were that professors were appointed by the founding authority under specific conditions and foreign students were given allowances. This was the beginning of authoritarianism and control in higher education, which eventually led to stagnation and a decline in academic life.

The Niẓāmīyya of Baghdad promoted the theological school of Imam al-Shāfi'ī. Other colleges promoted other Sunni schools of theology – Ḥanafism, Mālikism and Ḥanbalism. Shī'ite theology had its own colleges. In 631/1234 the caliph al-Mustanṣir established an important college on the Tigris called the Mustanṣiriyya.[62] It catered to the followers of the four schools of Sunni theology. Each corner of the four-sided college was dedicated to one of the schools: Ḥanafī, Shāfi'ī, Mālikī and Ḥanbalī.

Characteristics of higher education

Higher learning in the period of ascent was notable for the following characteristics:

As human knowledge was not so highly specialized, nor was it expanding so rapidly as in the twentieth century, one could qualify in more than one field of knowledge. Thus, one might be a philosopher, a physician, a poet and a scholar in religious sciences at the same time.

59. Some scholars had a large personal library, for example Ibn Lahī'a (d. 174/790): see R. G. Khoury, 1986, pp. 27–36. On public libraries see, *inter alia*: M. Māhir Ḥamāda, 1981; Y. Eche, 1967.
60. D. Sourdel, *EI²* art. 'Bayt al-Ḥikma'.
61. See M. A. Talas, *op. cit.*; on other establishments, see A. Shalabī, 1954, pp. 113–16.
62. See H. Schmid, 1980, which discusses archaeological features shedding light on education, and J. M. Roger's review of that work in English in *Bibliotheca Orientalis*, XL (1983), pp. 234–41.

The aims and foundations of education were religious, whatever the specialization chosen. Religion was the common denominator in all fields of learning. Faith was the axis around which life turned.

Students would seek knowledge for its own sake and for the sake of God. Diplomas, position and material profit were not the main motives for learning.

The path to eminence in scholarship, *ijtihād*, was open to all who could follow it. *Ijtihād* means the capacity (ability) to form an independent judgement on the problems of existence on the basis of exhaustive study, sound scholarship and reflective thought.

Learning occurred in a relatively free atmosphere with full student participation. The student would choose his professor and make arrangements for the place and time of study. He would choose his companions, who were not very numerous. These conditions did not apply to advanced studies, which were given as public lectures open to many scholars.

The duration of study was not controlled by days, months or years. Students would study at their convenience as long as it was necessary to complete the course.

There were no examinations to worry about. Some professors issued a licence (certificate) when a student had completed his course satisfactorily.

The number of subjects was limited and a student usually concentrated on one or two subjects at a time. Subjects were taught successively. A student would not move from one subject to another before mastering the first. The same subject might be studied at different levels, starting at the beginner's level in grammar, for example, then moving to the intermediate level and finally rising to a highly specialized level. This encouraged depth of knowledge and thoroughness. Moreover, a student might teach a subject he had completed to beginners. This guaranteed his mastery of the subject.

As we have seen, travel for the sake of learning was in vogue. A professor's fame might draw students from any part of the Muslim world. It was the professor and his scholarship that gave an institution its fame and importance.

The qualities of Islamic higher learning contain much that is precious for Islamic academic life today.

THE ERA OF STAGNATION

Unfortunately, Islamic society entered a period of religious intolerance, political regimentation and social and academic stagnation. Muslims were divided into the Sunni and Shī'ite sects. The Sunnis divided into fundamentalists and Ash'aris. They closed the door of *ijtihād* and decided to be guided in their religious affairs by the four great imams: Mālik, Abū Ḥanīfa, al-Shāfi'ī and Aḥmad Ibn Ḥanbal.

The Shi'ites, for their part, also divided into several sub-sects such as the Zaydīs, the Twelver Shi'ites, the Ismā'ilīs, etc.

Islamic colleges (*madrasas*) specialized in promoting the teachings of the sect to which they belonged. For example, the Niẓāmiyya of Baghdad catered to the Shāfi'ī school of theology. The Mustanṣiriyya College which was later established in Baghdad catered to the four Sunni schools of jurisprudence. Al-Azhar College in Cairo was established by the Fatimids (Shi'ites) but later became a Sunni institution and catered to the four Sunni schools of jurisprudence.

During this period, higher education underwent a change. The curriculum emphasized piety and life after death at the expense of life in this world. (Islam, properly understood, presents an excellent balance between the two lives and does not neglect life before death or human nature.)

Religious education was infected with sectarianism. Fanaticism and intolerance were sometimes in evidence.

Memory work and verbalism gained prestige at the expense of reflective thinking. Some original thinkers had to go underground, like the Brethren of Purity (Ikhwān al-Ṣafā').

New ideas were often discouraged and the motto became: salvation lies in tradition; innovation leads to perdition.

A general practice illustrating conservatism versus change in education was that successive generations used the same textbooks, sometimes with commentaries on the text and even commentaries on the commentaries. Summaries of the basic texts were made, studied and even memorized. To facilitate memorization, the subject-matter could be turned into rhyme, like the *One Thousand Rhymes* of Ibn Mālik (*Alfiyyat* Ibn Mālik) in grammar.

Form and style prevailed at the expense of originality in literature. Artificial pomp and class stratification took the place of simple, natural life in social relationships. Hence education often emphasized literary style at the expense of clear and natural self-expression. Scholarship became more argumentative and dealt with trivial matters instead of the great problems challenging Muslim society within and without.

Authoritarianism prevailed to such an extent that the programme of studies at the Mustanṣiriyya in Baghdad was at one time fully mapped out by the authorities, a fact that drew protests from some of the professors.

Political fragmentation, internecine intrigues and wars, religious sectarianism and intolerance, dogmatism and despotism all contributed to the decline and stagnation of Islamic education.

Leaders of traditional Islamic educational thought

Some early Muslim authors wrote works dealing specifically with the theory and practice of education. More numerous were the scholars, philosophers

and theologians who alluded to educational problems in works that were not basically educational. We shall confine our attention here to a small number of Arabic-language writers.

AL-JĀḤIẒ (150–255/767–869)

Al-Jāḥiẓ lived in Baṣra and wrote on a variety of subjects in a prose style that was to be a model for centuries to come. For a while he served as tutor to the sons of the caliph. A short chapter on teachers is to be found in one of his books, *al-Bayān wa'l-tabyīn* [Expression and Explanation]. It is a balanced essay, valuable and alive from an educational and historical point of view.

The chapter opens with a survey of the popular and unfavourable view of the teacher, whose foolishness and small-mindedness were proverbial. Thus it was said, 'more foolish than a *kuttāb* teacher', and 'How could intelligence and wisdom be found in one who rotates between an infant and a woman!'

Al-Jāḥiẓ refutes this view in the following passage:

> There are, in my view, two classes of teacher: those who raised themselves above teaching the children of the common people to specialize in teaching the children of the nobility, and those who raised themselves above teaching the children of the nobility to devote themselves to teaching princes who would succeed to the caliphate . . . The unfavourable view of teachers cannot apply to either class. It cannot even apply to all teachers in village *kuttābs*, for they are like any other class of men: they include the superior and the inferior.[63]

IBN SAḤNŪN (202–256/817–869)

The earliest concise treatise on the subject of teachers was written by Ibn Saḥnūn, a great Tunisian theologian whose father, Saḥnūn, was the leading religious authority of his time in Tunisia. Ibn Saḥnūn, in his purely religious treatise,[64] records his father's views on education. They concern: the virtue of learning and teaching the Qur'ān; the importance of a teacher showing justice and impartiality towards his pupils; the buying or hiring of copies of the Qur'ān or other religious books; treating the name of God with respect; the conduct and discipline of children; the rules of properly administering corporal punishment; the celebration of the child's termination of the study of the Qur'ān; holidays; the teaching of non-Qur'ānic subjects such as arithmetic, poetry, calligraphy, grammar, etc.; and contracts between teachers and parents.

63. As quoted by A. L. Tibawi, 1972, p. 36.
64. Ibn Saḥnūn, 1981.

There are many specific details included, such as: the teacher should not exploit his pupils by asking them to do errands on his behalf; the teacher should see to it that children (boys and girls) learn to perform the prayers at the age of 7 and he should punish them if they neglect to do so after the age of 10; he should teach them not to touch the Qur'ān unless they are clean; and children should learn to tell the truth and not to harm one another.

THE BRETHREN OF PURITY (IKHWĀN AL-ṢAFĀ') (fourth/tenth century)

The Brethren of Purity were a secret society of men who reacted to the dissensions and contradictions appearing in Muslim political and intellectual life in the fourth century of the Hegira.

This secret society spread from Baṣra to Baghdad and other parts of the Muslim world. They produced fifty-two tracts, adding a fifty-third as a summary. These tracts represent a synthesis of philosophy, science, religion and mysticism, presented in clear, persuasive language with stories, verses from the Qur'ān, and classical poetry here and there. Educational thought is found in some of the tracts, especially in Volume I.[65]

The following are some of the basic educational tenets of the Brethren of Purity:

The supreme and ultimate aim of education remains strictly orthodox, namely, happiness in this world and eternal bliss in the next.

'Concentrate on the education of youth, for old people's ideas are already formed and not easy to change.'[66]

Approach education through the senses and habit formation.

The natural and social environment influence the human character.

One's faith (or belief) influences character. This is the meaning of the story of the Magi and the Jew told in one of these tracts.

As human beings are essentially different, each individual must be given work appropriate to his or her talents.

The relationship between the teacher and student is compared to a spiritual paternity: 'Know, O brother, that your teacher is the begetter of your soul, just as your father is the begetter of your body. Your father gave you physical form, but your teacher gives you a spiritual one. Your teacher nourishes your soul with learning and wisdom and guides you to attain everlasting bliss. Your father brought you up and trained you to make a living in this transient world.'[67]

65. Cf. Ikhwān al-Ṣafā', *Rasā'il.* See Y. Marquet, n.d., pp. 275–362.
66. Quoted by A. L. Tibawi, *op. cit.*, p. 18.
67. *Ibid.*, p. 39.

Exalt excellence in craftmanship: 'Excellence in every craft is imitation of the Wise Creator and He loves the skilful craftsman . . .'.[68]

Tolerance and open-mindedness to all faiths and all knowledge is important: 'In general our brethren, may God support them, should not be antagonistic towards any field of knowledge, nor discard any of the Books, nor be biased (fanatical) towards any one of the schools of thought, for our school of thought includes all the schools of thought and brings together all the sciences, and looks into all existing things, sensory or conceptual, from beginning to end, apparent and hidden, with an eye seeking the truth, for it is all from one principle, one cause, one world, one self, englobing all the different essences, the different types, and the varieties of species and changing molecules.'

A Muslim educationist can find a mine of good counsel on education in the writings of the Brethren of Purity.

IBN SINĀ (AVICENNA) (370–428/985–1037)

Ibn Sīnā was one of the greatest of all Islamic thinkers. He was a scientist, philosopher, medical man, poet and mystic.

Ibn Sīnā's writings and influence were wide and deep. In *al-Siyāsa* [Politics], a book attributed to him, he deals with education which, for him as for others, begins with birth and continues until marriage. Ibn Sīnā advises cultivating a child's behaviour from infancy. As soon as the infant is weaned, he should be taught good manners and sound morals, with persuasion or coercion if necessary. As soon as the child is able to speak he should be taught the Qur'ān and learn the alphabet and reading. He should also be taught the religious tenets and memorize some rhymes. Like many Muslim writers and educationists, Ibn Sīnā emphasizes the importance of choosing a good teacher and good companions for the child.

After learning to read the Qur'ān and mastering the fundamentals of the Arabic language, the child should learn a craft. Differing individual endowments, different intelligence levels and individual interests must be taken into account in choosing a vocation. After acquiring a profession, the young adult should start earning his own living. As soon as he is able to support himself, he should marry and become independent.

Ibn Sīnā's philosophy and mystic poetry make an appreciable contribution to education. In the library of Sepehsalar in Tehran the present writer studied some of Ibn Sīnā's manuscripts. In one of them are three verses which may be translated literally as follows: 'Cultivate the self with the sciences so that you may rise and see the Whole, for He is the Home of All. /Verily, the

68. *Ibid.*

self is like a lamp: the mind is the wick, and God's wisdom is the oil. /If the lamp is alight, you are alive; if it is dark, you are dead.'

Although Ibn Sīnā is not especially famous as an educator, he made a real contribution to Islamic educational thought.

ABŪ ḤĀMID AL-GHAZĀLĪ (450–505/1058–1111)

Al-Ghazālī was one of the great figures in the history of Islamic thought. He rationalized the Islamic religion and saved it from being overrun by Greek philosophy. He also put Islamic theology on solid logical foundations. At the same time he discovered that the divine light in the human heart is the essence of truth and the source of genuine knowledge. Thus he integrated his rationalism with divine mysticism.

His influence on Islamic education has been deep and lasting. The first volume of his great work *Iḥyā' 'ulūm al-dīn* [The Revival of the Sciences of Religion] and his tract *Ayyuhā al-Walad* [Letter to the Disciple] contain inspiring guidelines for Muslim educators of all periods:

He exalts the function of teaching and learning by quoting the Qur'ān and the sayings of the Prophet.

He divides knowledge into that required by every Muslim, which includes knowledge of man's obligations to God, and knowledge required from only some members of society. Learning man's duty to God is for all, but learning medicine or bakery is not a universal requirement.

He emphasizes learning for its own sake. Learning should be an end. Education should prepare for life after death in order to avoid over-indulgence in this world's pleasures.

He expounds the moral qualities and duties of the teacher and the student and warns against corrupt sycophants who appear in the guise of learned men.

He emphasizes the importance of action and the application of knowledge to life and warns against learning that is not useful or not translated into action.

He especially emphasizes the purity of the heart and the need to cure oneself of rancour, jealousy and arrogance.

He recommends play for children so that they will not be bored by too much study. On the other hand, there should be no excess or exhaustion from play.

ZARNŪJĪ (d. 571/1175)

Zarnūjī lived at a time when, in intellectual and religious life, formalism, verbalism, dogmatism and stagnation prevailed at the expense of innovation and physical and moral progress. The motto of the day was: 'Preserve the old and beware of the new.' In such circumstances Zarnūjī's tract *Ta'līm al-muta'allim*

li-ta'allum ṭariq al-ta'lum comes as an interesting contribution to the educational thought of the time. The author derives his educational ideas from prevalent beliefs, his professor's admonitions and the poetry of the day.

He emphasizes, as usual, the importance of learning, which is to be sought for the sake of God without any selfish or mundane motives.

Other matters considered important include: taking the decision to learn; choosing a subject, a teacher and companions; dedication, effort and perseverance; piety and abstention from forbidden practices; seeking excellence and growth in knowledge; discussing and debating what is being studied with others; understanding and meditating before memorization; and material self-sufficiency so that material needs are not a source of worry and do not disturb academic pursuits.

Zarnūjī recommends: earning one's living and studying at the same time; reading the Qur'ān regularly; learning something about medicine and hygiene; learning from personal experience; and jotting down one's reflections and discoveries in daily life.

Zarnūjī believes in practices of the pre-scientific age which may be considered as folklore today. He enumerates ways of improving memory, such as eating twenty-one raisins every morning before breakfast, and habits that hinder memory work and cause forgetfulness, such as eating sour apples. Modern science accepts that the physical condition of man is related to his intellectual function, but in Zarnūjī's time, a large number of practices were accepted without being proven.

A name to be associated with Zarnūjī is that of Nāsir al-Dīn al-Ṭūsī (597–672/1201–1275), whose work, *Adab al-Muta'allimin wa-rasā'il ukhrā fi'l-tarbiya* [The Ethics of the Learner and Other Tracts on Education], was published by the Saudi scholar A. A. al-'Aṭṭār. On reading the tract by al-Ṭūsī, we find that it deals with the same topics as the tract attributed to Zarnūjī, and in the same language, although it omits extraneous material, poetic references and the stories of the professors included by Zarnūjī.

Al-Ṭūsī was a man with a wide scientific background, especially in mathematics and astronomy. He was the founder of the observatory at Maragha.

IBN JAMĀ'A (639–733/1241–1333)

Ibn Jamā'a, who became a judge in Syria and Egypt, was a great scholar in the sciences of tradition, jurisprudence and exegesis of the Qur'ān.

His tract, *Tadhkirat al-sāmi' wa'l-mutakallim fī adab al-'ālim wa'l-muta'allim* [A Memorandum to the Listener and the Speaker on the Ethics of the Learned Man and the Learner],[69] is more detailed than Zarnūjī's, as it de-

69. Hyderabad, 1353/1934; see F. Rosenthal, 1947, *passim*.

scribes the daily life of the professor and the learner. Ibn Jamā'a arranged his memorandum in four sections, namely: the virtues of knowledge and of its possessors, and the honour that is due to the learned man and his offspring; the ethics of the learned man concerning himself, his students and his lessons; the ethics of the learner concerning himself, his teacher, his companions and his lessons; and the ethics of living in colleges and caring for the precious things they contain. Each section is divided into chapters, and each chapter is divided into between ten and fourteen items.

The following is a sample of the instructions taken from Section 4, Chapter 1:

> (The student should) choose for himself as far as possible one of the colleges whose founder is closer to piety and farther from innovation, so that he may be convinced that the college and its religious foundation (*waqf*) are legitimate. And if he receives a stipend it should come from a clean source. The need for caution in (choosing) a residence is like the need for caution in (choosing) food and dress, etc. As much as possible one should lean to honesty by avoiding institutions founded by kings whose conditions for the construction and endowment of the college are unknown. If the conditions are known, his stand becomes clear although it is rare for all the supporters to be devoid of injustice and oppression.

From Section 3, Chapter 1, item 9:

> (The student) should reduce his sleep, unless harm is done to his body and mind, and not sleep more than eight hours, which is one-third of a day. If he can bear it, he should sleep less than that.
>
> He may refresh his soul, heart, strength and sight if any of these are fatigued or weakened. He may go sightseeing and to places of pleasure until he is back to normal but he should not waste his time. Walking and physical exercise may be practised . . .
>
> Legitimate sexual intercourse may be practised if needed, for doctors have stated that it dries up the superfluous matter and enlivens and clears the mind if moderately . . . practised . . . excessive intercourse weakens the hearing, the sight, the nerves, the temperature and (causes) other bad illnesses. Authoritative doctors think that it is better to avoid intercourse except for necessity or as a cure.
>
> On the whole it is all right to seek relaxation if one fears boredom. Some great learned men used to bring together their friends for excursions on certain days of the year and joke about whatever is not harmful from the point of view of religion or honour.

In short, Ibn Jamā'a's *Memorandum* is valuable as a reflection of the educational theory and practice of the time.

IBN KHALDŪN (732–800/1332–1406)

Born in Tunis, Ibn Khaldūn was one of the most original thinkers of all time. He was a historian, sociologist, judge and statesman. His *al-Muqaddima* [Prolegomenon] is a mine of knowledge and wisdom.

Among other subjects, it contains sound educational thinking, combining idealism with objectivity and realism. Unlike most writers on Islamic education, he does not quote extensively from the Qur'ān and the *sunna*. He deals with education rationally and sociologically, with common sense and objectivity.

Here are some of his still relevant thoughts on education:

Teaching as a profession is a product of man's progress in civilization.

Subjects of learning fall into two categories – those revealed, which have to be accepted, such as religion and language; and those produced by man's thinking, invention and study of the universe, such as philosophy, science, art and technology.

Teaching a subject should move from the simple to the complex, and from the general to the particular. A subject may be taught at an elementary level, taught again at a secondary level and then at a higher level, increasing in breadth and depth at each level.

Students should not have to study many subjects at one time. A student's mind should not be confused.

A student should not be given summaries of subjects to memorize or a plethora of writing on the same subject.

A child should not have to memorize what he does not understand. An exception is made in the case of the Qur'ān because of its religious significance and because a child may not have the opportunity to memorize it later on.

Special attention should be paid to the teaching of language and it is important that the student is given a good grounding in Arabic. Functional studies of Arabic grammar are recommended, without undue emphasis on memorizing rules, for some grammarians are unable to write a letter without grammatical errors.

Character should be taught by example, guidance and inspiration. To use harshness and authoritarianism with children is prohibited, for these may turn them into liars, cowards or sycophants.

The teaching of philosophy is not advised before one is well versed in one's own faith.

Students are advised not to engage in politics.

Students are advised to travel in search of knowledge.

Ibn Khaldūn compares the systems of teaching in the various parts of the Muslim world and may therefore be considered an early forerunner of the science of comparative education.

IBN ḤAJAR AL-HAYTHAMĪ (909–974/1503–1567)

Ibn Ḥajar al-Haythamī was born in Egypt. He was a scholar of Shafi'ī jurisprudence and the author of a number of books. One of his tracts, *Taḥrīr al-maqāl* [Essay Writing], is in sharp contrast to Ibn Khaldūn's ideas on education. Al-Haythamī relies entirely on tradition. His tract consists of *ḥadīths* that deal with the teaching of the Qur'ān. He considers whether it is permissible to ask for fees for teaching the Qur'ān or to use the Qur'ān in various ways as a talisman or cure for sickness and ill health.

With regard to the duties and ethics of teachers, he says that a teacher should avoid being alone with a nice-looking boy or looking at him with passion as he would do with a woman. He discusses the subject of beating children with its pros and cons and concludes that three blows are the optimum and should never be on the face or head.

Al-Haythamī answers some questions put to him on teacher–student relationships, including fees, gifts, discipline, using clever students as assistants in teaching, asking students to do errands, permitting professors to lodge in a school, and admitting orphans to the school if this brings the numbers of pupils to above the full complement.

He ends his book by citing ten *ḥadīths* of the Prophet admonishing the people, the young, orphans, children, God's creation, a sparrow and other creatures to be merciful.

Al-Haythamī's tract presents a true picture of educational thought and practice in the days of asceticism and dogmatism in the Muslim world.

The writings of traditional educators are rich and varied. They contain principles and practices that are worth studying, reviving and introducing into modern Islamic education.[70]

The impact of the West on education in the Muslim world

THE RISE OF MUSLIM CIVILIZATION

When Muslim progress in science and philosophy reached its zenith, Europe had much to learn from the Muslim world. The Muslims had certainly achieved an all-round, balanced civilization of which they could be proud. It was a civilization that harmonized faith with science, philosophy and action.

Christian scholars came to study at Muslim centres of learning, and cul-

70. See L. Gardet, 'Notion et principes de l'éducation en Islam' in L. Gardet and Chikh Bouamrane, 1984, pp. 204–18.

tural dissemination took place through education and trade, and later through the Crusades.

THE DECLINE AND ITS CAUSES

No civilization is guaranteed eternal greatness, and Muslim society is no exception. Its decline was followed by that of education and instruction. The reasons are numerous and complex, but the following seem to be the most noteworthy:

Corruption, the struggle for power and despotism on the part of the rulers began to undermine the power structure of Muslim society. The Muslim empire was fragmented into smaller states, with rulers who were often mutually antagonistic.

Muslim rulers began to manipulate some institutions of Islamic learning and to take sides with a particular religious sect. As a result, some learned men became subservient to authority, while others became antagonistic or withdrew. Some even went underground.

Learned men did not teach people religious tolerance and respect for another's point of view. Instead, fanaticism and sectarianism prevailed, and inter-sectarian feuds sometimes appeared. This certainly weakened Muslim solidarity.

In general, Islamic higher education and learning became stagnant, verbal and argumentative, dealing with minor issues quite divorced from real life. Muslims remained unaware and unmindful of the changing world.

A disparaging criticism of the mentality and attitude of the so-called learned men of the period of decline was made by the Turkish author Katib Chalabi (d. 1087/1957):

> But many unintelligent people remained as inert as rocks in blind imitation of the ancients. Without deliberation they rejected and repudiated the new sciences. They passed for learned men while all the time they were ignoramuses fond of disparaging what they called 'the philosophical sciences' and knowing nothing of earth or sky. The admonition 'Have they not contemplated the Kingdom of Heaven and Earth?' (VII. 185) made no impression on them. They thought contemplating the world and the firmament meant staring at them like a cow![71]

This condition of intellectual and scientific stagnation was certainly one of the causes of the decline of Muslim civilization.

The Muslim world was mercilessly assaulted from without. The Crusaders invaded Syria and established the Latin Kingdom of Jerusalem. The

71. Fazlurrahman, *op. cit.*, p. 187.

Mongols invaded Baghdad in 648/1258 and destroyed its great libraries. Spain fell, and its glorious Muslim civilization was lost.

LATE OTTOMAN REFORM

The vigorous attempt by the Ottoman Turks to expand and conquer Europe for Islam between the fifteenth and the eighteenth century was thwarted by the same factors as contributed to the weakness of Muslim society. In their expansion westward, the Ottomans conquered all the Balkans, reached Hungary and besieged Vienna, but they were driven back and the present-day Balkan states, helped by modernized Western powers, achieved their independence from the Ottoman empire by successive wars.

In 1839 the Ottoman empire introduced modern education along Western lines in the reforms known as the Tanzimat. Similar calls for reform and modernization were heard here and there in the Muslim world. Khayraddīn Pasha in Tunis and Ṭaḥṭawī in Egypt are examples from the nineteenth century. But these measures were too meagre and came too late to deal with the fast-growing Western powers armed with modern science, industry, military organization and, above all, a new nationalist and patriotic zeal.

Western imperialism began to penetrate and dominate Muslim countries one by one. This movement reached its peak at the beginning of the twentieth century. By the end of the First World War, most of the Muslim world was dominated by the Western powers and the Ottoman empire was dismembered.

Mustafa Kamal (Atatürk) saved modern Turkey from Western political domination, but he took a full turn towards Western culture. He abolished the caliphate, changed the Islamic–Arabic script and adopted laicism, separating religion from the state. However, he did preserve religious faculties of Islamic learning.

THE IMPACT OF WESTERN COLONIAL RULE ON EDUCATION

The impact of Western colonial rule may be summarized in six main points:

The colonial powers generally tried to use education to strengthen their domination and exploitation and to spread their language, ideology and culture.

There was a general educational starvation of the people of the colonies, especially in the scientific and technical fields. A modicum of modern education was provided for those people who would be employed in running the colonial system as clerks, teachers and government officials. In some colonies a small number of lawyers, doctors, etc. were trained.

A minimum of traditional Islamic education was tolerated under the strict supervision of the colonial authorities, and it was thanks to these efforts that the Islamic faith and identity of the ordinary people in the colonies were preserved. Moreover, it was this kind of education, begun and encouraged by Ibn Badis and Sheikh Beshir al-Ibrahimi in Algeria, that kindled the fire of the Algerian revolt.

Some colonial powers encouraged the people to practise religious tolerance, while others used religion as a tool for political domination. Through a policy of 'divide and rule', they sowed dissension between different sects and faiths.

Some colonial powers tried to stamp out the national identity, culture and language of the countries they colonized. Using a foreign language in daily life instead of one's mother tongue became a symbol of civilization and culture. A cultural inferiority complex developed in many people under colonial rule.

Well-to-do Muslims could afford to send their sons abroad to the universities of the colonial powers. Some of them became great national leaders when they returned home.

EDUCATIONAL PROBLEMS ARISING AFTER POLITICAL INDEPENDENCE

After the First World War, encouraged by the promulgation of the Wilsonian principle of the self-determination of peoples, Muslim nations in Asia and Africa began to struggle for national independence. Iraq and Egypt achieved independence and joined the League of Nations in the 1930s. Other Muslim nations had to continue to struggle until the United Nations was established in 1945 towards the end of the Second World War. By the end of the 1960s, practically all Muslim countries had achieved political independence. Many of them showed great zeal in promoting education and culture, but they were still very dependent on the West. Some preserved or adopted the Western colonial system of education without seriously considering whether it was suited to their own needs and conditions. They therefore face serious problems, which may be summarized in the following eight points:

There is a dualism between the old and the new. The traditional Islamic colleges teach religion while the new institutions are mainly secular. Education thus divides the nation.

Academic and theoretical learning prevails at the expense of the exact sciences and technology. Book learning and memory work are encouraged by rigid examination systems. Practical and applied work, exploration, thinking, initiative and discovery are neglected.

The University of Petroleum and Minerals, Dhahran (Saudi Arabia)
Lochon © Gamma, Paris

Undue emphasis is placed on passing examinations and acquiring certificates. Intellectual excellence and cultural achievement are rarely given the recognition they deserve. Students seek to pass their examinations without much effort, hoping to obtain a degree in order to secure a good job with a high salary. Learning for the love of learning is rare.

Quantity is thought to be the measure of progress, irrespective of quality. Muslim ministries of education often pride themselves on the great advances they have made in terms of numbers of students, teachers, schools, universities, etc., which is all to the good, but they rarely report on the degree of excellence they have achieved and how they compare with the best in the West.

Education is mainly authoritarian and highly centralized. One can safely state that although Muslim countries sometimes adopt the principle of democ-

racy in education they do not succeed in teaching and practising the principle. Genuine democracy requires sound knowledge, high morality and self-discipline.

Education often overloads students with subject-matter and emphasizes book learning and memory work at the expense of the students' physical, social, religious, aesthetic and moral development. This is a gross violation of the well-established Islamic tradition in education according to which only one or two subjects should be taught at a time.

Thousands of Muslim students enrol annually in Western educational establishments. The problems arising from this pilgrimage for learning are numerous and grave. The following are some points deserving thought and action:

- Are the students well prepared academically and firmly grounded in their own culture, language and religion?
- Do they choose subjects needed for the progress of their country? Some students choose subjects requiring little effort just to obtain an easy degree.
- Do they choose a first-class university noted for its high standards of scholarship and research or do they choose second- and third-rate universities that award degrees easily, especially to foreigners?
- After their return, do they find it easy to gain entry into the life of their country or do they meet political, economic and administrative obstacles that cause frustration? Some educated people lead a miserable life at home or leave the country, thus creating a brain drain.
- How do unmarried students adjust to years spent abroad in Western countries without incurring the risk of acculturation or even of deculturation?

And last but not least: can a nation's educational philosophy be borrowed from foreign lands and to what extent? Western education is mainly objective. Islamic education unites the subjective and the objective. It is both objective and intuitive. The Western philosophy of education often separates religion from science. The Islamic philosophy of education considers that one leads to the other. The same is true of the relationship between morality on the one hand and science, religion and action on the other.

THE INTERACTION BETWEEN ISLAMIC AND WESTERN EDUCATION

Contacts between Islamic education and Western education, science and technology are essential and vital. Muslims would be wise to keep an open mind and adopt a far-sighted approach to Western education. At present there are three different attitudes to Western education and culture.

There is the negative approach that sees the West as Satan – something to be shunned altogether. This is a somewhat naive attitude, since health, transportation, printing mechanics, economics, etc. are all fields in which the West plays a vital role.

Then there are those who think that Western culture should be adopted *in toto*. They would turn their backs on Islam and leave their cultural heritage behind.

There is a third attitude that seeks to combine Islamic faith and morals with modern science and technology. The educational teaching of the Qur'ān supports this approach.

Humankind should really be moving towards unity. Muslims have to come to terms with both the East and the West so that all human beings can live peacefully in one world, giving and taking whatever is culturally valuable in a spirit of reciprocity and understanding for the benefit of all humanity.

In conclusion, we consider it necessary to mention below some of the very real challenges facing Islamic education today.

Human beings as God's agents on earth

Will Islamic education develop human beings to be the agents of God (*khalīfa*) on earth? This implies raising them from their bestial level to the highest possible level of morality and spirituality. It means using faith, virtue and science to build this world as God wants it to be built, aiming at moral and material excellence in beauty, goodness and truth.

The challenge of a rapidly changing world

Islamic education is a noble ideal which remains as relevant as ever. It must be adapted to a rapidly changing world, a world of revolution in science and unpredictability in natural, technical, social and political developments.

The intercultural challenge

Will Islamic society be open to world cultures in order to absorb the best of knowledge, wisdom and technology, whatever its provenance, and to make its own contribution to human knowledge and welfare in return – always respecting both objective and subjective truth?

Islamic unity and solidarity

Will Islamic education promote Islamic unity and solidarity and teach Muslims tolerance, fellowship and wider loyalty in order to rise above tribalism, regionalism, sectarianism and the class struggle?

Material development

The Muslim world is rich in lands, rivers, vegetation, oil and minerals. Will Islamic education promote scientific and technological methods in agriculture and industry and in the exploitation of mineral resources without waste or negligence?

Self-defence and world peace

Muslim nations in general are technically underdeveloped, militarily unprepared and politically disunited. Will Islamic education promote technical skills, political integration and prepare men and women for national defence so that the Muslim world may survive in freedom and in peace and with the rest of humankind?

The future of the Muslim world depends in great part on the positive development of Islamic education, in other words, on the answers it gives to these crucial questions. The ultimate goal of Islamic education is to build a human society that truly represents the excellence of Islam and enables Muslims to contribute to human fellowship under one God, the Master and Creator of the universe.

Chapter 7

THE EMANCIPATION OF WOMEN: A CONTINUING PRIORITY

Muḥammad Ma'rūf al-Dawālībī

The modern world aspires to the establishment of a single human society, without distinctions of race, sex or creed. Islam is in a position to contribute towards meeting this real desire, in particular as regards the situation of women.

In connection with the United Nations' call for a new humanitarian world order consistent with the principles of human rights, it is noteworthy that in the fourteen centuries since its emergence Islam has explicitly proclaimed 'the unity of the human family' and strongly condemned 'discrimination' between races, peoples or creeds as regards the right to life; required acknowledgement of the 'dignity of all human beings', without differentiation; called for beneficent co-operation among all men, regardless of ethnic or religious affiliation; and laid stress on 'absolute fairness' for one and all as regards their right to life with dignity, in order to safeguard 'peace' on earth.

In this way Islam founded the 'new beneficent society' on a humanitarian world basis; it actually instituted a way of life guaranteeing equality and advocating mutual love between all men, whether free beings and Arab lords belonging to the Qurayshite nobility or slaves and freedmen from different peoples and nations, such as Salmān al-Fārisī, Bilāl al-Ḥabashī and Ṣuhayb al-Rūmī.

The Prophet many times emphasized the humane, universal character of Islam, saying, for example: 'None of you is a believer until he desires for his brother what he desires for himself' (Muslim, *īmān*, 71, 72; al-Bukhārī, *īmān*, 7; Ibn Ḥanbal, III, 176, 272, 278). In his farewell address to the Muslims, shortly before his death, he stressed the following verse in the Qur'ān: 'O mankind! We created /You from a single (pair) /Of a male and a female, /And made you into /Nations and tribes, that /Ye may know each other. Verily /The most honoured of you /In the sight of God /Is (he who is) the most / Righteous of you. /And God has full knowledge /And is well acquainted (with all things)' (XLIX. 13) so as to bring out the humane, universalist fea-

tures of the Muslim message, saying in particular: 'An Arab is not better than a foreigner, nor a white man than a black, unless he be more godfearing (Ibn Ḥanbal, V, 411). But above all he urged men to treat women well, declaring: 'Women are the sisters of men' (Abū Dāwūd, *ṭahāra*, 94; al-Tirmidhī, *ṭahāra*, 83; Ibn Ḥanbal, VI, 256, 277).

It is appropriate to recall these Muslim principles to show how they accord with the United Nations' call for a new humanitarian world order, the question of the situation of women being one of the subjects that needs to be examined in this framework.

We shall deal with the subject of the situation of women in four main parts. In the first, we shall examine the principles that shape the Islamic view of women. The second will be devoted to the role of women in Islamic society. Since it is impossible to ignore the fact that there is a 'women's problem' in Islam, we shall then examine some of these problems and the way to resolve them. Finally, we have thought it worthwhile to study some of the prejudices about the lot of women in Islam, and this will form the subject of the last part.

Islam and women

ISLAMIC PRINCIPLES REGARDING WOMEN

In order fully to understand the Islamic principles that condition the position of women, they must be put back into the overall context of Muslim ideas about God, the universe and man. This is not the place to do so, but it must never be forgotten. For the present we shall confine ourselves to the following three principles derived from the Qur'ān. First, Almighty God appointed mankind as His successors on earth in two sexes, men and women, in accordance with His word: 'I will create /A vicegerent on earth' (II. 30). Secondly, He called upon both sexes equally to build the earth, in accordance with His word: 'It is He Who hath produced you /From the earth and settled you /Therein' (XI. 61). Thirdly, He called upon them both equally to worship God on earth, in accordance with His word: 'I have only created /Jinns and men, that /They may serve me' (VI. 56).

So according to Islam a human being, whether male or female, has the same rights and the same duties: he is the vicegerent of God on earth, and must people it and adore God.

Thus men and women take on together all the responsibilities entrusted to them by God, both as regards his vicegerency on earth, and the fact of peopling it and adoring God. They are equal partners in the act of procreation; their good actions and their devotion to Him earn them the same esteem in the sight of God. All this is corroborated by the word of God, which says about men and women:

> The believers, men /And women, are protectors, /One of another: they enjoin /What is just, and forbid /What is evil: they observe /Regular prayers, practise /Regular charity, and obey /God and His Apostle. /On them will God pour /His mercy: for God /Is Exalted in power, Wise. /God hath promised to Believers, /Men and women, Gardens /Under which rivers flow, /To dwell therein, /And beautiful mansions /In Gardens of everlasting bliss; /But the greater bliss /Is the Good Pleasure of God: /That is the supreme felicity' (IX. 71–72).

Or again: 'If any do deeds /Of righteousness, /Be they male or female, /And have faith, /They will enter Heaven, /And not the least injustice /Will be done to them' (IV. 124).

To grasp the scope of these principles we need to examine the position of women before Islam, and in particular under certain ancient legal codes.

THE POSITION OF WOMEN BEFORE ISLAM

Judged in the light of the three principles we have just referred to, the position of women under some ancient legal codes seems unenviable. We shall choose three examples, the laws of Manu, Roman law and the laws of pre-Islamic Arabia.

In the first case, we shall confine ourselves to quoting what Jawaharlal Nehru wrote in his well-known book *The Discovery of India*: 'The legal position of women, according to Manu, was definitely bad. They were always dependent on somebody – the father, the husband or the son.' All legacies in that society of course passed down in the male line, to the exclusion of females. Nehru added: 'Bad as the legal position of women was in ancient India, judged by modern standards it was far better than in ancient Greece and Rome, or in early Christianity.'

As for ancient Roman law, we shall add to the Indian leader's statements that the status of women in Roman law was based on the denial of any legal capacity to women and their being placed in a state of 'permanent tutelage' because of their sex. Whether they were minors or adults, they were under the tutelage of their father or their husband, and had no freedom to dispose of their goods as they wished. In short, they could bequeath but could not themselves inherit.

A woman was thus an 'object' that belonged to man. Consequently she had no personality of her own and no 'right to dispose' of her property. Vestiges of this situation still survive today, in the twentieth century, and in most modern states the laws still bear the imprint of Roman law, as jurists well know.

We should also like to mention here the position of women in the early Christian period, because of Roman law and its consequences, as the Indian leader Nehru said, but perhaps also because of the institution of monasteries

and the rejection of marriage in order to grow closer to God. Some church councils even wondered about the nature of women's souls.

As regards the position of women in many tribes of the Arabian peninsula at the time when Muḥammad began to preach Islam, it was even worse. Before Islam, Arab women were a dishonour, and some of their male guardians sought to be rid of them by burying them alive at birth. This behaviour was suggested to them by various considerations, the main ones being the physical frailty of women and the inadequate means of men at the time.

In his call to Islam, Muḥammad condemned this distressing state of affairs, as is clear from many verses in the Qur'ān. Thus in one place it says: 'When news is brought /To one of them, of (the birth /Of) a female (child), his face /Darkens, and he is filled /With inward grief! /With shame . . . does he hide /Himself from his people /Because of the bad news /He has had! /Shall he retain it /On (sufferance and) contempt /Or bury it in the dust? /Ah! what an evil (choice) /They decide on!' (XVI. 58–59; see also LXXXI. 8–9 and VI. 151).

CHANGES INTRODUCED BY ISLAM

The changes introduced by Islam stand out all the more clearly. Whereas in some parts of the world women were denied the quality of humanness and rights as human beings, Muḥammad's voice rang out to proclaim their rights. He put the problem of the position of women in the forefront of the issues dealt with by Islam, stating the following principles: fraternity between women and men and their interdependence; the independence of women to swear allegiance to Islam and the Prophet, thereby proclaiming that their will was independent of men's and stressing their full capacity and responsibility when they swore allegiance to God and the Prophet; and the solidarity of men and women. As the Qur'ān says: 'The believers, men /And women, are protectors /One of another' (IX. 71).

Thus we see that Muḥammad's call to Islam regarding the position of women turned the pre-Islamic view of women completely upside-down, making them what modern legal language could call 'full human beings with all their dignity', just like men, without any discrimination, and recognizing not only their full legal competence and independence – as regards property, buying, selling or marriage, without any guardianship and without restriction on their right of free disposal (unlike the position of women as it still remains by national law and custom in parts of the modern world) – but also their 'full responsibility', just like men, in the noble mission entrusted by God to human beings, men and women, to represent Him on earth, and in the duty He placed on them both 'to settle the earth and worship God in it'.

Islam raised women from nothingness to existence, from a hypothetical

Different generations in Kairouan (Tunisia)
Silvester © Rapho, Paris

humanness to one that was fully recognized, from legal incompetence to full legal competence.

The Prophet of Islam even went so far as to raise women further, putting mothers before fathers in terms of dignity and piety, when he was asked: 'O Messenger of God, who is most deserving of my good comradeship?' He replied: 'Your mother'. 'And after her?' 'Your mother'. 'And after her?' 'Your father'.[1]

SOLIDARITY BETWEEN THE SEXES IN ISLAM

Let us reflect a moment on the following words of God: 'Believers, men /And women, are protectors, One of another' (IX. 71).

This verse seems to us crucially important, so we would like to consider it very particularly. It makes women the partners of men by virtue of the duty placed on them to 'forbid' whatever might harm and corrupt people; and because Islam proclaims that women, just like men, must fulfil the role assigned to them of settling the earth and worshipping God therein.

To understand that, the verse needs to be read as a whole: 'The believers, men /And women, are protectors, /One of another: they enjoin /What is just, and forbid /What is evil: they observe /Regular prayers, practise /Regular charity, and obey /God and His Apostle: /On them will God pour /His mercy: for God /Is Exalted in Power, Wise' (IX. 71).

The point is that Islam does not confine itself in this immortal text to delivering women from 'dependence on men', as one of their possessions, or to delivering them from the 'guardianship' that allowed men to have the right of life or death over them. It also makes them the equals of men in dignity, saying categorically: 'Believers, men and women, are protectors, One of another.'

The rest of the verse widens the scope of this precept of Islam by acknowledging women's equal right with men to 'enjoin and forbid', in accordance with the right of 'mutual guardianship', viz. by giving them the right equally with men to 'enjoin what is just'; they become 'fit to enjoin', i.e. to enjoin whatever the community regards as good and essential for the common good; and by giving them also the right to 'forbid what is evil', i.e. what scholars, wise men and thinkers regard as evil and corrupting, preventing human beings from following the right path in life.

The Qur'ānic text strengthens the doctrine of 'the unity of both sexes' in the eyes of God; this unity stems from their identical ability 'to lift themselves up by worshipping Him and to deserve His mercy', for Islam refutes certain doctrines and ideas according to which women are contemptible beings, deserving neither the right and honour of worshipping God nor His mercy.

1. Al-Bukhārī, 1862–1908, IV, p. 108 (78, *adab*, 2); tr. O. Houdas and W. Marçais, IV, p. 139.

The Qur'ān likewise reinforces the principle of guardianship by women, alongside guardianship and responsibility by men. On this matter the Prophet said: 'You are all shepherds responsible for your flocks; /The imam is a shepherd responsible for his people; /A woman is a shepherdess responsible for her people; /A servant is a shepherd responsible for his people: /You are all shepherds responsible for your flocks' (Ibn Ḥanbal, II, 5, 54, 111).

With these two texts, the Qur'ānic verse and the *ḥadīth*, Islam put an end to discrimination between the sexes as regards the seat of power. It divided responsibility between them on the basis of the division of power among everyone, whatever their roles in society, and of the principle that each must obey the other so that they may together and complementarily serve the common interest, without discrimination, whatever the social position of either. The two texts put them on the same footing: they did not give the 'right' to enjoin, forbid or be responsible to one sex to the exclusion of the other. This right 'to enjoin or forbid' is what we now call 'freedom of speech and criticism, both for officials and ordinary people'.

Here we need to mention certain facts and historical applications, in the early days of Islam, of this power, recognized as 'an equal right for governor and governed, men and women', which today is called 'a constitutional right' of every citizen to 'freedom to criticize' and to guide officials and others towards the good and to criticize their misdeeds. I should like here to mention a single example of this, viz. a remark made by a woman in the street to the Commander of the Faithful in person.

One day 'Umar Ibn al-Khaṭṭāb, preaching against excessive dowries, had rightly asked that no woman should receive a dowry greater than that of Fāṭima, the Prophet's daughter, namely 10 silver dirhams. A woman said to him in the street: 'Must we hearken to your words, O 'Umar, or to God's?' 'Umar answered at once: 'To God's, of course'. The woman then reminded him of God's word:

> But if ye decide to take /One wife in place of another, /Even if ye had given the latter /A whole treasure [*qinṭār* = a talent of gold] /Take not the least bit of it back (IV. 20).

Then 'Umar answered her in all humility and with deference: 'The woman is right, the man is wrong.' The text of the Qur'ān is the fundamental text of Islamic law, and cannot be gainsaid. It was a woman who put things to rights, and the Commander of the Faithful, conqueror of Persia and Byzantium, listened to her and acknowledged that she was right and he was mistaken. Thus fourteen centuries ago Islam reformed the position of women and achieved what even today seems a bold deed.

Islam and the role of women in society

Importance of the question in relation to the duties of human beings

This question lies at the heart of the problem of human duties, not that of human rights. Until now international charters have confined themselves to dealing with basic natural human rights, leaving human duties to be dealt with under the rules about 'duties' found in civil law and its complementary provisions; as though duties were not, like rights, basic and natural, or as though the only duties were those that human beings voluntarily undertake or that society imposes on them through the law.

What is the position of Islam on this subject?

The rules and principles of Islam reject this attitude, taking the view rather that human beings only have basic natural rights if they are matched by duties that (like rights) are basic and natural in character.

One of the postulates of Islam being the equality of basic natural rights for both sexes as regards human dignity and legal competence, it adopts the same attitude as regards the equality of duties assigned to the two sexes, whether it be vicegerency on earth, the duty to settle it, or to worship God therein. In addition, according to Islam, it is for each of the sexes to carry out its duty and its role, this being essential if an integrated human society is to be established. Their roles are complementary, not competitive, and necessary.

The complementarity of men and women within the family

The position of Islam on the role of women in society is simple and clear. It is based on established Islamic concepts and precepts, viz.:

Islam regards woman as man's partner in carrying on God's vicegerency on earth; together they form the two poles without which the balance of this vicegerency is impossible.

Woman is responsible alongside man for exploiting the earth, which in the first place requires that they both share in procreation, and it is essential that they both found the legitimate family.

Although they take part in the duties of the vicegerency, they are different in constitution – this being a token of their complementarity in performing these duties. Thus woman is by her constitution the only one able to bear children, suckle them and look after them throughout childhood. Hence the place of motherhood in Islam is more important than that of

fatherhood. In return, it is for the man to ensure the existence of the family, in other words to work and meet its needs.

Although exempt from the task of earning a living, a woman is perfectly entitled to practise the legitimate profession of her choice. But then she must reconcile her desire to work and earn her living legitimately, without being obliged to, with her duties as mother and the duty to take care of the home, so as to preserve the family unit, which is the basic component of society, since disruption of the family unit means the disruption of society as a whole.

In short, both men and women have a fundamental role to play in society, and their roles are complementary. Each of them should take on the role for which they are better fitted when it comes to certain duties, so as to implement this complementarity. But that must not prevent either of them practising the legitimate profession of their choice, subject to the exigencies of the common interest. Nevertheless in any case the following principle holds good: both men and women are equally responsible towards their relatives.

It is impossible to stress too strongly the sacred character of the society that Islam advocates. It is firmly attached to a family morality whose aim is to preserve the family in the framework of the rules of absolute equality between the sexes. This Islamic morality is at odds with some moralities prevailing in the West. These often weaken family ties and do not give motherhood the importance it deserves. If the family unit is disrupted, society as a whole is unsettled.

The problems of Muslim women

It is a well-known fact that some customs and habits die hard. We began this chapter with an unenviable picture of the position of women before Islam, in Arabia and various parts of the world. For centuries men have exercised a sort of domination over women, and this is not peculiar to Islamic civilization.

The French Revolution represented a step forward; it promulgated the Declaration of the Rights of Man, but women were hardly considered in it: 'Men are born and remain free and equal.' These words did not prevent some people, well into the nineteenth century, from opposing votes for women. Thus Gustave Le Bon, well known to Arabs for his *La civilisation des Arabes* [The Civilization of the Arabs] (1884), declared in one of his books that 'women were the equals of men only in periods of decadence'.

It was not until the United Nations, set up after the Second World War, that those who campaigned for women's rights at last succeeded in having a text adopted that explicitly recognized equality between men and women at the international level.

To this day, unfortunately, some backward practices still persist, particularly the way some fathers treat their daughters by appropriating their dowries when they marry. This sort of exploitation is still common in some Muslim circles, especially in the country, but these problems are not peculiar to Islam. They are among the vestiges of a deplorable past, still rooted in customs in certain areas and opposed by Islam most energetically now as in the past. In short, this is a problem alien to Islam: it only arises in some ignorant rural circles, where Islam has no grip on people's minds and Islamic law is not properly enforced. The situation is quite different in Muslim circles in towns, profoundly imbued as they are with the principles of Islam. There no girl leaves her father's house to get married without being loaded with gifts and presents, whose value sometimes far exceeds that of the dowry and which belong to her absolutely. The father's generosity of course depends on his financial situation.

Nevertheless we must not blind ourselves to the fact that much remains to be done in the Muslim countries to enlighten people. Some states, such as Tunisia, Algeria, Iraq and Syria (but they are not the only ones) have done much to open up new possibilities for women to enter social, professional and even political life. In Egypt there are many women in the intellectual sphere in particular; the same is true in some Muslim regions of Black Africa, Indonesia, Pakistan, India and elsewhere. But it must be acknowledged that the world of men still too often confuses Islam with customs rooted in certain Islamic circles; indeed, it could be said that the problem of women is also the problem of men, who too often forget that 'believers, men and women, are

Moroccan women airline pilots, Casablanca (Morocco)
Spengler © Sygma, Paris

protectors, one of another', and who want to continue to exercise a certain domination over women, in defiance of the Islamic principles mentioned above.

In Islam women have an essential tool for asserting their rights, a rich legal arsenal fourteen centuries old. Only ignorance and the force of habit prevent their situation improving.

Preconceived ideas about the position of women in Islam

It is difficult to understand the logic of civilizations that are foreign to us, and every human group has its prejudices about other people's way of living and thinking. Muslims also have their prejudices about other people, so we must not be surprised that preconceived ideas about Islam are still current today. We should like here to consider six types of preconceived ideas about the position of women in Islam.

THE SUPPOSED INEQUALITY BETWEEN MEN AND WOMEN AS REGARDS INHERITANCE

The allegation that there is inequality between the sexes as regards inheritance is contrary to the basic principle clearly established by the Qur'ān of the absolute equality and reciprocity of the rights of men and women, as may be seen from the following verse: 'And women shall have rights /Similar to the rights /Against them, according /To what is equitable; /But men have a degree /(Of advantage) over them' (II. 228).

This advantage is strictly defined by the Qur'ān. According to the texts the man is the head of the family and has custody of it, i.e. he must meet its needs. After all, he is constitutionally better fitted to bear this heavy social responsibility. This responsibility is like all other managerial duties in society entrusted to those best fitted to carry them out in the common interest. In fact, what might seem a privilege is actually a heavy burden laid on men and spared to women, without the least infringement of the equality of the sexes in dignity and rights.

This represents the acme of fairness and a desire to avoid all injustice between men and women, in accordance with the verse in the Qur'ān: 'Men are the protectors /And maintainers of women', i.e. it is their function to guide them and meet their needs, as the rest of the verse says, 'Because God has given /The one more (strength) /Than the other, and because /They support them /From their means' (IV. 34).

Furthermore it is a mistake to say that women are not equal to men because of the rule in the Qur'ān 'to the male /A portion equal to that /Of two

females' (IV. II): for this is not an absolute rule, but a rule applicable in some cases for reasons of fairness between the sexes.

The Qur'ān in fact sets out to guarantee equality between men and woman in other cases: when a mother and a father inherit from their son, who has only male offspring, they are each entitled to one sixth of the legacy; a uterine brother and sister inherit equal shares from a brother when the latter has no male descendants and no forebears entitled to inherit.

Nevertheless, as we have seen above, there are exceptions to this principle of equality between the sexes as regards inheritance, in order to be fair, in cases defined by the Qur'ān, viz.: when the deceased leaves children, the rule is: 'To the male the like of the portion of two females'. This rule applies in other similar cases; in the case of inheritance between spouses, the man's share is double that of the woman's.

The first case, namely inequality of inheritance between the children of the deceased, and all similar cases (notably that of relations through the male line), are all well known in inheritance law; they were designed to ensure performance of the duty to provide for the surviving members of the deceased's family and his other dependants.

Now this duty is incumbent on men and not on women. That is why in such cases a male inherits 'the like of the portion of two females', for it will be for him, in case of need, to provide for the women. It would thus be unjust to give the woman the same share as the man, since she does not have the same duties as he does.

It is also for reasons of fairness that inheritance between spouses departs from the rule of equality. The husband inherits twice the wife's share, because he has to continue providing for the children, whereas the wife is not committed to this duty. On the contrary, it is incumbent on her male children, if necessary, to maintain their mother out of their own resources or their legacy.

Thus it is clear that the statement that women are not equal to men as regards inheritance is unfair. Though there are apparent exceptions to the principle of equality, these exceptions in fact aim to preserve fairness and equality, since the duty of upkeep is incumbent only on men, in accordance with the rule of the *shari'a* that people should give in proportion to their duties, or that duties should be in proportion to what people give (*al-ghunm bi'l-ghurm aw al-ghurm bi'l-ghunm*).

The supposed inequality between men and women as regards bearing witness

Those who claim that women's rights are less than men's as regards bearing witness rely on this verse in the Qur'ān: 'Get two witnesses /Out of your own men, /And if there are not two men, /Then a man and two women, /Such as

ye choose /For witnesses, /So that if one of them errs, /The other can remind her' (II. 282).

We must again draw attention to certain categorical texts that state the principle of equality between the sexes in Islam:

Women are the absolute equals of men as human beings: 'Whoever works righteousness, /Man or woman, and has Faith – /Verily, to him will We give /A new life; a Life /That is good and pure, and We /will bestow on such their reward /According to the best /Of their actions' (XVI. 97).

For his part the Prophet said: 'Women are the sisters of men.'

Women, like men, have full legal competence to exercise their rights and dispose freely of their property. In fact, either sex can exercise guardianship over the other, as the Qur'ān says (IX. 71).

Thus any Islamic rule about women must be interpreted in the light of the principle of equality as between women and men, whether as human beings or in terms of legal competence. This interpretation must, however, be made in the context of the philosophical concepts of Islam, not through false ideas spread by ignorant people or people alien to Islam.

As regards the particular question of evidence, and the supposed inequality between women and men in the 'right' to bear witness, it must be noted that bearing witness is a heavy burden. It is a duty and not merely a right for either sex. The Qur'ān severely warns those who might be tempted against suppressing evidence: 'Conceal not evidence; /For whoever conceals it, /His heart is tainted With sin' (II. 283).

While in financial matters Islamic law strengthens evidence by requiring it to come from two men, where evidence about childbirth (with its implications for inheritance) is concerned, women are specially favoured, since one single woman's evidence suffices.

MEN'S SUPPOSED EXCLUSIVE RIGHT TO DIVORCE

Some people say that only men are entitled to a divorce. It should be noted here that marriage in Islam is regarded as a contract based on a twofold consent. When the spouses marry they give each other their persons, according to the rules of the *shari'a*, and from then on each spouse is entitled fully to enjoy the other's person, which without this contract would be unlawful.

But a distinction is drawn between the spouses: the wife is entitled to a marriage dowry of a value and on conditions that she fixes herself. The man, on the other hand, receives no counterpart in return for the gift of his person. Hence the contract rests only on the wife's gift of herself in return for the marriage dowry. If she breaks the contract, it is like breaking any contract entailing duties. Now in every legal system, such a breach of a contract is of course inadmissible.

Nevertheless when signing the marriage contract a woman may, in a clause drawn up for the purpose, reserve herself the right to break the contract if a given condition is fulfilled, on the understanding that this clause must be agreed to by both spouses. If the condition in question is fulfilled, the wife is entitled to require a divorce. For instance, she can reserve herself this right in case her husband were to be polygamous without her consent, or in other cases.

POLYGAMY IN ISLAM

As regards polygamy, Islam was not the first religion to institute it: it had been legally accepted earlier, at least since the birth of Judaism, which was the source of Christianity.

It was so under all the Old Testament prophets since Abraham, who for the Arabs, the Jews and the Muslims is the first of the prophets. Moreover polygamy still survives today in illegal but genuine forms among the peoples who prohibit it. This practice is very harmful both to the two lawful spouses and also to the unlawful wives and their children.

Islam set out to remedy this state of affairs by a number of reforms.

The first reform consisted of limiting the number of wives to four, whereas previously there had been no limit on the number. Secondly, Islam required the husband to observe the strictest fairness as between his wives in the matter of conjugal rights. Thus the wife is entitled to go to court if she thinks she has been wronged, in order to be re-established in her rights or have her marriage annulled.

Consequently after a first marriage the husband can contract another only with the consent of his first wife. Thus each wife is legitimate and like her children enjoys the rights that flow from marriage, instead of being a concubine despised by society whose dishonour rebounds on her children.

By this prerogative the wife saves herself from shame, her children from perdition and her husband from infidelity. To deprive her of this legitimate personal right would mean condemning her to lifelong concubinage, which could be a flagrant violation of her natural right to contract a legitimate union.

But a first wife often finds it hard to accept polygamy. So she is entitled, when signing the marriage contract, to make her consent subject to the condition that she is entitled to a divorce if her husband contracts a second marriage without her consent. This is the third reform introduced by Islam as regards polygamy.

By all these reforms (limiting the number of wives to four, the duty of fairness as between the wives and the wife's right to a divorce should she not consent to a second marriage) Islam safeguards the interests of society. Husbands, wives and children can thus live completely lawful lives, have their

rights respected and keep themselves from debauchery, infringements of their dignity and the ruin of their children.

The number of wives being limited to four, some people may wonder why the Prophet himself overstepped this limit by taking nine wives when other Muslims must respect the limit. We would make the following comments before answering this question:

During the thirteen years that followed the call to Islam the Prophet had only one wife, who was fifteen years older than himself. He had married her fifteen years before the call and he did not take another wife during her lifetime.

Though the Prophet did in fact take nine wives, he only did so later in life, when he was at Medina and Islam was already stronger and spreading, but before the divine injunction limiting the number of wives to four had been promulgated or the reforms mentioned above introduced.

The Prophet chose his various wives, when Islam was expanding rapidly in Medina, for reasons connected with Islam. It was a matter of winning over the tribes to which these wives belonged and their leaders, and honouring wives who had lost their husbands because of the call.

The women who chose to marry the Prophet were forbidden to remarry after his death.

The Prophet was thus not required to divorce five wives in order retrospectively to observe the limit of four wives imposed by the Qur'ān. Moreover each time he married he did so for the sake of the cause, particularly from the time when Islam began to spread; for the Prophet needed his wives to propagate the rules of the *shari'a* among women.

In any event the Qur'ān also imposed limits on the Prophet himself, since he was categorically forbidden to contract any marriage apart from those he had already contracted, even if one of the wives were to die. He was also forbidden to substitute any other woman, however attractive, for one of his wives. The Prophet was thus subjected to prohibitions that did not apply to other Muslims (XXIII. 52).

THE WEARING OF THE VEIL IN ISLAM

The wearing of the veil in Islam is related to two considerations. First, men and women are forbidden to show their nakedness. Moreover, men and women must observe modesty and decency in public, so as to safeguard morality. Civilized humanity regards clothes as an embellishment and the way to meet a rule of decorum. This idea is expressed by the Qur'ān: 'O ye children of Adam! /We have bestowed raiment /Upon you to cover /Your shame, as well as /To be an adornment to you, /But the raiment of righteousness, /That is the best' (VII. 26).

According to Islam, a man must observe minimum clothing limits when at prayer or devotions; he must cover the part of his body between the belt and the knees. Apart from that he can dress soberly according to his means and the prevailing rules of politeness and decency.

Women also have minimum clothing limits laid down for them to observe when at prayer or their devotions. These standards are stricter than in the case of men, still for reasons of decency and respect for God. Thus they must cover the whole body except for the face, hands and feet, for otherwise their dress would be inappropriate in places of worship. A woman must also observe these rules of dress in society.

So we see that the duty to cover one's body was originally applied to both men and women, first as a mark of respect for God and then as a rule of social etiquette. Islam strictly forbade the nudist practices current in certain ancient cults and rituals among both the Arabs and other peoples. Islam lays great importance on the observance of these rules, so much so that God made the duty to cover one's body a binding condition for carrying out the act of worship; and when they pray women must obey them strictly, even when there are no men present and they are alone in their own homes.

Islam also prescribes observance of these rules of dress away from places of worship, particularly when one is away from home. Covering the body is the first sign of decency and civility in Muslim society. People must always observe it in society, even in the intimacy of a private space.

When she goes out a woman puts on a dress that covers her from head to foot and hides her indoor clothes. This shows the high-mindedness of Islamic ideas concerning women's clothes, which reflect a continual concern to respect the modesty and decency called for in social intercourse.

The observance of these rules of dress was originally thought to be the first politeness towards God during worship; they are still in force to this day both in Islam and in most other religions.

It is said that in the early days of Islam some men took it into their heads to provoke Muslim women, as they used to do with the slave-girls in the Arabian peninsula before Islam. This almost led to a bloody conflict. It was then that the Qur'ânic injunctions were promulgated requiring Muslim women to wear a long dress so as to distinguish them: 'O Prophet! /Tell /Thy wives and daughters, /And the believing women, /That they should cast /Their outer garments over /Their persons (when abroad): /That is the most convenient, /That they should be known /(As such) and not molested' (XXXIII. 59).

So Islam ordered Muslim women to cover their faces and chests with their dresses, contrary to custom, so as to be identified as followers of Islam and free women, and thus avoid provocations. This was a measure designed to obviate offensive behaviour and disturbances.

Such, then, is the history of the veil in Islam: originally the idea was only

to cover women's bodies out of modesty in the presence of God and men, without being extended to their faces, hands and feet. But things changed when men set out to annoy Muslim women.

THE SEVERITY OF THE PUNISHMENTS FOR ADULTERY IN ISLAM

As regards the punishments prescribed by Islam in the context of women's rights and human rights in general, the present writer agrees with all those concerned about human rights that the punishments for theft and adultery are severe. It is possible, though very rare, for a thief to be sentenced to have his hand cut off, or for adulterers of either sex to be sentenced to flogging, or to stoning to death in extreme cases.

We acknowledge that stoning and similar *ḥadd* punishments are extremely severe; but Islamic courts are not prone to inflict these punishments, according to the provisions of the *shari'a* itself, which enjoin their avoidance as far as possible. Thus for fourteen centuries the crime of adultery has never been established by evidence, for the rules in the matter are particularly strict. The only cases recorded are those in which the guilty parties themselves confess their crime, which is very rare. The judge seeks by every legal means to brush these confessions aside, urging the guilty person to ask God's forgiveness and save his or her honour. This clearly shows the desire to avoid the enforcement of the punishment so far as possible, in accordance with the provisions of the *shari'a* itself.

The severity of the punishments for these crimes in Islam is intended to deter potential criminals from committing them. Hence stoning, though it remains theoretically possible, has never been enforced as a result of evidential proof (which is difficult to adduce in this field) and only rarely as a result of confessions by the guilty parties.

The result is that by virtue of these severe punishments Islam has succeeded in preserving the cohesion of the family and society. Admittedly we are convinced that human nature is the same everywhere: but the abandonment of these severe religious punishments in the criminal laws of some countries has had the effect of leading husbands and wives to fear God less and to succumb more easily to the temptation of crime. This is our explanation for the weakening of family ties in non-Muslim countries, where husband and wife no longer enjoy the marital bliss enjoyed by Muslim spouses, who remain faithful to each other, their religion and their God.

Such, then, is the position of women in Islam. They are the equals of men in all human rights. We have endeavoured to discuss these rights and refute the prejudices put about on the subject. We have sought to explain the Islamic point of view and its logical, humanitarian basis, to make sociologists

realize that at bottom Islam satisfies their concerns and that even when some of its provisions seem odd to them they in no way injure it.

Islam thus has ideas and a philosophy peculiar to itself, whose logic, justice, humanity and social and practical value cannot be doubted. Suffice it to repeat that Islam has always loudly proclaimed that 'Women are the sisters of men,' and that 'Male and female are part one of the other.'

In conclusion, let us recall the words of Professor Edouard Monet of the University of Geneva, in his preface to the *Traduction des sens du Saint Coran* [Translation of the Meaning of the Holy Qur'ān]: 'Muḥammad's reforms were a source of immeasurable progress, making him one of the great servants of humanity . . . To mention but one of those reforms, the prohibition against burying girls alive at birth is enough to ensure the name of Muḥammad an unforgettable place in history.'

Chapter 8

CHILDHOOD AND YOUTH

Chadly Fitouri

Childhood

Considered simply in terms of rates of population growth and the age pyramid[1] in Muslim communities, children would appear to be highly prized in Islam. And indeed, when a marriage is celebrated, the ritual formula pronounced consists of a well-known *ḥadīth* which runs as follows: 'Marry and multiply for you will be my pride among the peoples on Judgement Day.'[2] From this point of view, Islam can be said to be in agreement with the other revealed religions as regards the primary purpose of marriage and seems to go even further in so far as it emphasizes the number of descendants – for obvious sociological reasons, which we shall have occasion to return to – viewed as a manifest sign of power and a source of pride for the Prophet, as the supreme head of the community.

Islam is also in agreement with the other revealed religions as regards the duty to respect and preserve offspring starting from the stage of gestation. Abortion is as severely punished by Islam as infanticide, especially when it is deliberate and occurs after the fortieth day of pregnancy. If it occurs after the fourth month – the period when the soul is breathed into the foetus – it is regarded as homicide and punished as such in accordance with *lex talionis*. At this stage, all the legal rules concerning heritage are applied to the foetus, thereby enshrining its legal personality in addition to its moral

1. According to the *Human Development Report* (UNDP, 1994), the average rate of population growth between 1960 and 1992 was 2.8 in Algeria, 4.1 in the Libyan Arab Jamahiriya, 2.8 in the Sudan, 2 in Guinea-Bissau, 2.8 in Senegal, 3.2 in the Comoros, 5 in Djibouti, 2.8 in Somalia, 4 in Saudi Arabia, 3.9 in Bahrain, 9.6 in the United Arab Emirates, 3.3 in the Islamic Republic of Iran, 6.2 in Kuwait, 3.8 in Oman, 7.5 in Qatar and 3.4 in the Syrian Arab Republic.
2. Al-Ghazālī, *Iḥyā'*, II, p. 22.

personality, which is recognized upon insemination, according to certain rites of *fiqh*.[3]

All the legal schools, whether Sunni or Shī'ite, ascribe this legal personality to the covenant which God concluded with all the descendants of Adam, once he had descended on earth (VII. 172). This idea of a covenant gives to the whole of human procreation, from Adam to the end of time, a metaphysical dimension which has remained to the present day one of the most controversial aspects of Muslim theology and mysticism.[4]

It consecrates the nature of the relationship between all human beings and God who is their Creator – in other words, their origin – and their ultimate destination. Through this covenant, man is marked by the seal of the Creator and thus carries within him a spark of the divine nature, that spark which enabled him to pass from the state of an embryo to that of a foetus, as when 'He fashioned him in due proportion, and breathed into him something of His spirit' (XXXII. 9). As the divine spirit or soul[5] is not breathed into the embryo until after the fourth month of pregnancy, it is understandable that all the Islamic legal schools consider abortion after that date to be equivalent to homicide.

This idea of a covenant between God and the whole of humanity cannot be overemphasized, notwithstanding its ambiguity and the polemics to which it continues to give rise in respect of the conflict between free choice (the Mu'tazilite option) and predestination (the option of the traditionalists[6]). The fact remains that after affirming the principle of the dignity of man (XVII. 70)[7] and choosing him from among all His creatures to be His vicegerent on earth (II. 30),[8] God rewarded each human being, as yet in a state of potentiality, with a knowledge and a commitment such as to ensure his protection in the two worlds. The divine essence of man is by the same

3. See the excellent work done on this subject by M. S. Madkūr, 1969.
4. One set of traditions has it that, after Adam had descended on earth, God summoned all his descendants before their birth and made a covenant with them requiring them to recognize no God but Him. At the same time, God fixed the fate of each one in both this world and the next, and divided humanity into two categories: people of heaven and people of hell. One can imagine the controversies sparked off by such traditions among jurists, theologians and philosophers. For the great commentator of rationalist persuasion al-Zamakhshari (d. 528/1134), the famous verse in question presents no more than a set of symbolic analogies, very common in the Qur'ān (see *al-Kashshaf*, Cairo, 1935, II, p. 103).
5. The Qur'ānic term *ruḥ* is rendered in the various translations sometimes as 'spirit' and sometimes as 'soul'.
6. The *ahl al-hadith*, or people of the prophetic tradition.
7. 'We have honoured the sons of Adam [. . .]'. The verb *karrama*, used in this verse, gives the noun *karāma*, which is the equivalent of the Latin term *dignitas* (dignity, merit, prestige).
8. 'Behold, thy Lord said to the angels: I will create a vicegerent on earth.'

token enhanced, and this essence is immediately attributed to him from the moment that his soul is breathed into him. Accordingly, this Islamic conception of man makes no distinction between the foetus, the newborn baby, the child and the adult. Similarly, it makes no distinction based on sex or colour.

As the covenant concerned all of Adam's descendants, all human beings are equal in dignity and their moral and legal personality[9] is vested in them from the beginning, at the embryonic stage. For this reason, the *fiqh* already establishes certain fundamental human rights existing before birth, such as the right to life, the right of filiation, the right of inheritance and the right to receive bequests and *waqf* property.[10]

The strictness with which Islam punishes abortion – which it likens to the crime of infanticide – derives from a strong reaction to a practice that was common in the Arabian peninsula, before Islam, and which consisted in burying infant girls alive at birth. The Qur'ān severely condemns this practice of *wa'd*,[11] along with any other act directly or indirectly detrimental to human life, as it constitutes a kind of impediment to His will as expressed in the famous covenant. For this reason, any harming of the female reproductive organs (*arḥām*) is to be considered a reprehensible act (IV. 1). Islam, like the other revealed religions in this respect, establishes the principle of the inviolability of life. Life is sacred because God alone can give it and God alone can take it away. In only one case can man take life, and then by a kind of divine proxy: when he does so by way of justice and law (VI. 151).

Accordingly, the orthodox interpretation has inferred an absolute prohibition of contraception for women when it harms the female reproductive organs (chemical or surgical castration, tying of the tubes, etc.) or is of an irreversible character, the principle being to forbid any act that might definitively put an end to the function of reproduction, for this would run counter to divine will.

9. This legal personality, or *dhimma*, should not be considered from the point of view of positive law. Rather, it is a concept established by the science of the foundations of Muslim law, or *'Ilm uṣūl al-fiqh* (see in this connection M. S. Madkūr, *op. cit.*, p. 273).
10. Property in mortmain that a legatee (relative or other) can register in the name of a person of his or her choice.
11. The noun *wa'd*, in Arabic, comes from the verb *wa'ada*, which means to bury someone alive. The term is used once in the Qur'ān (LXXXI. 8). The Qur'ān speaks in the same sense of *qatl* regarding children (VI. 140, 151; XVII. 31; LX. 12; LXXXI. 8), i.e. the killing of children, without specifying the method used. Furthermore, the Qur'ān speaks of girls being buried alive only once (LXXXI. 8) and in other verses uses the generic term 'children' (*awlād*) without specifying the sex. This clearly shows that infanticide, in the pre-Islamic period, was practised without discrimination as to sex. Was it a case of ritual sacrifice? Or was this kind of crime committed through fear of poverty? The explanations given, both Eastern and Western, are very much at variance with one another on this point.

The sacred character of life and the way in which Islam punishes anything that may hamper life have brought today's religious authorities face to face with two thorny problems, namely, contraception and sterility.

As regards contraception, according to tradition, coitus interruptus, already largely practised before Islam, was not condemned by the Prophet. On being asked by his Companions, during the battle of the Banū al-Muṣṭaliq, what he thought about that method of contraception, he is reported to have said: 'There is no reason for you to give up that practice since God – praised be He – has already decided what He is going to create until the Day of the Resurrection.'[12]

These words of the Prophet seem on the face of it to beg the question. However, most of the legal schools have construed them as signifying the 'non-illicit' character of coitus interruptus. It is a 'permitted' act (*mubāḥ*).[13] Some, like the renowned al-Ghazālī, go so far as to justify it in the following terms: 'Reasons for practising coitus interruptus include a concern to preserve the woman's beauty and health in order to enjoy her as long as possible; the fact also of preserving her life for fear of the dangers of a miscarriage and for fear of the many difficulties arising from a large number of children.'[14]

Certain *fiqh* schools consider the free consent of the wife to be a suspensive condition for this practice.[15] Others go so far as to require her explicit authorization at the time of establishing the marriage contract.[16] The fact remains that the practice of *'azl*, or coitus interruptus, has since the time of the Prophet been considered by the legal schools to be permitted, from the religious standpoint. By a similar kind of reasoning, the *faqīhs* of the present age have regarded in the same light as *'azl* any practice serving to suspend momentarily the function of reproduction, so long as there is no risk of it being endangered permanently. Accordingly, in 1953, the al-Azhar *fatwā* commission issued a *fatwā*[17] authorizing the use of contraceptive devices; and, in 1966, the Islamic Conference, held in Cairo, adopted the point of view expressed by the rector of al-Azhar, Sheikh Maḥmūd Shaltūt, to the effect that 'all individuals are free to choose the means whereby they may postpone pregnancy without impairing the reproductive function.'[18]

The second problem that has had to be addressed by Muslim law in the

12. *Ḥadīth* registered by al-Bukhārī and by Muslim. Quoted by M. S. Madkūr, *op. cit.*, p. 316.
13. For the five categories of human acts in Muslim law, see Ṣ. Maḥmaṣānī, 1952, II, p. 12. See Chapter 1 (in the present work) on norms and values in Islam.
14. Al-Ghazālī, *Iḥyā'*, II, p. 53.
15. Such is the attitude of the Ḥanbalīs, the Mālikīs, the Zaydīs and the Ibāḍīs. See M. S. Madkūr, *op. cit.*, p. 317.
16. *Ibid.*
17. *Fatwā*: legal opinion based on the interpretation of canonical texts.
18. M. S. Madkūr, *op. cit.*, p. 319. See also *idem*, 1965.

contemporary period is that of sterility. The two treatments currently used are artificial insemination and *in vitro* fertilization. Known to Muslim jurists since the beginnings of Islam, artificial insemination is lawful only on the express condition that the sperm used is that of the husband. It is regarded as unlawful and placed in the same category as *zina*, or the offence of fornication, if the sperm donor is not the husband or indeed, for certain schools, if the inseminated woman is convinced that the sperm belongs to someone else even though it is in fact the husband's.[19] Similarly, it may be said that *in vitro* fertilization is lawful only when the egg and the sperm are derived from a lawfully wedded couple.[20] The question of sterility in the man is not broached here, and indeed works of *fiqh* remain silent on this point, for good reason: for as, in such a case, the only way of remedying the situation would lie in artificial insemination using another man's sperm, the situation thus created would fall into the category of *zina*. Furthermore, as adoption is prohibited in Islam, there remains only that solution which is akin to it and which is designated by the term *kafala*. This consists in assuming responsibility for the care and education of the child without in any way changing his or her civil status, so as to preserve filiation, concerning which Islam is absolutely intransigent.[21]

The practice of infanticide during the *jahiliyya* (pre-Islamic period) seems to have been very common, for two reasons: one ethical, hinging on a particular conception of honour, to which women were considered to represent a perpetual threat;[22] and the other, economic, based on the fear of poverty. Addressing the Prophet, God categorically rejects this argument as follows: 'Come, I will rehearse /What God (hath really) /Prohibited you from: join not /Anything as equal with Him [. . .] Kill not your children /On a plea of want; – We /Provide sustenance for you /And for them' (VI. 151).

19. M. S. Madkūr, 1969, pp. 131–9. This attitude shows how much intention (or *niyya*) plays an essential part in determining how human actions are judged in Islam.
20. A special case could arise in a situation where there is polygamy and where, one of the lawful wives being sterile, ovules are removed from one of the other wives, fertilized by the sperm of the husband and implanted in the uterus of the sterile wife: the basic principle to be observed being that of the purity of paternal descent and the lawfulness of the bonds that exist between the two parents.
21. For this reason, the *fiqh* is uncompromising where filiation is concerned: any denial of paternity is strictly forbidden. The general rule here is that 'the child belongs to the bed (where he or she was born)' (*al-walad li'l-firāsh*), in other words, to the lawful father – except where there is a flagrant situation of adultery or clearly established judicial separation, in which case the *fiqh* provides for penalties and solutions generally accepted by all the schools.
22. See B. Farès, 1932. Besides frivolity, the two essential threats that women present not only to their close relatives but also to the entire tribe are abduction (*saby*) and seduction. In both cases, the affront thus suffered by the group can be avenged only through the shedding of blood (see pp. 77–9).

Bichr Farès cites a third reason, of a sociological character, which however we find excessive. He claims that for a warlike society, as Arab society was before Islam, since the male population was constantly at risk, there must necessarily have been a surplus of women, which could be reduced through the practice of *wa'd*. This is described as a drastic means of demographic self-regulation. 'In my view,' he says, 'the Arabs buried their daughters because they were not destined for war. In anticipation of times of scarcity, they did away with the extra mouths to be fed. The uselessness of women in war was the cause of the *wa'd*, while drought was the condition for it.'[23]

It may be inferred from all this that the practice of infanticide was fairly widespread in the Arabian peninsula in pre-Islamic times, and that Islam strenuously opposed it.[24] It may easily be imagined that this criminal practice was directed by choice more against girls than boys in a warlike society with a strongly established patriarchal structure. Islam, taking into account the nature and the good and bad inclinations of human beings, took the opposite view to pre-Islamic society and proclaimed not only that the sexes were equal but also indeed that girls and women should benefit from preferential treatment.

Thus in at least four verses the Qur'ān takes to task those who prefer boys to girls: 'When news is brought /To one of them of (the birth /Of) a female (child), his face /Darkens, and he is filled /With inward grief. /With shame does he hide /Himself from his people /Because of the bad news /He has had! /Shall he retain it /On (sufferance and) contempt /Or bury it in the dust? /Ah! what an evil (choice) they decide on!' (XVI. 58–59).

The Qur'ān reproaches miscreants who, to justify the killing of girls at birth, would claim that they were God's and should return to Him, whereas boys alone belonged to them (XLIII. 16; LIII. 21).

As for the prophetic tradition, it is distinctly favourable to girls. Al-Ghazālī, alluding to the practice of *wa'd* in the pre-Islamic period, notes that a good Muslim:

> should not be too gladdened at the birth of a boy nor too saddened at the birth of a girl, for he knows not whence good may come. And how many fathers of boys or girls have subsequently wished they had not had them. Yet girls show greater loyalty and God through them more amply rewards their parents. The Prophet – may God's salvation and blessing be upon him – said: 'He who has a daughter and raises her in the best way, feeds her in the best way and lavishes on her the riches given to him by God, will be for him a protection (against the flames of hell) and a help in gaining admittance to heaven.' And Ibn

23. B. Farès, *op. cit.*, p. 128.
24. See note 11 above, concerning the term *wa'd*.

Group of children wearing embroidered caps, al-Ḥamra, near Nizwa (Oman)
Daniel Riffet © Explorer, Paris

> 'Abbās [. . .] added that the Prophet also said: 'Any man who has two daughters and treats them with kindness and generosity, so long as they live with him, can be sure of being admitted through them into heaven.'[25]

Al-Ghazālī also quotes some of the Prophet's words that show a distinct preference for girls over boys. The Prophet is thus reported to have said: 'He who goes to a fair organized by Muslims and there acquires something which he takes home and sets aside for the girls and women to the exclusion of males, God sets on him His gaze. And those upon whom God gazes will not be tortured.' And in another version, the Prophet is said to have declared: 'He who goes to market and brings back purchases for his family acts as though he were making through them an offering to God. He must therefore begin with the girls before the boys, for he who makes a girl happy is comparable to him who weeps from fear of God; and he who weeps from fear of God, God saves his body from the flames of hell.'[26]

We thus see how Islam restores the balance between boys and girls in a society that was wont not only to overprize boys, but also to destroy girls, both morally and physically. The very tilting of the balance in favour of girls that we have just seen was intended to combat the re-emergence of the pre-Islamic outlook, which still today can easily be detected in certain circles.

In the same vein, Islam assigns a special place to women and confers upon them a status which they never had previously and which has not yet been equalled by more than one modern body of laws.[27]

Without wishing to go further into the question of sexual equality in Islam, it is however necessary to stress that Islam establishes from the start the inviolability of the principle of human dignity and that accordingly there can be no question, either in the rules of *fiqh* or in everyday morals, of making distinctions between children and adults, men and women or ethnic groups and peoples. In addition, children are treated from the foetal stage as complete beings with a vocation and a destiny. Their vocation consists in developing their potential and fulfilling themselves physically, intellectually, aesthetically, morally and socially. Their destiny lies in the fact of succeeding in their lives in this world and escaping the torments of the next. It is achieved through the free exercise of their natural faculties, which enable them to attain truth and to satisfy their deep yearning to respond to the call of God. It is in this sense that Islam is said to be *dīn al-fiṭra*, or a religion in keeping with human nature. It is to the same end that every human being is

25. Another version of this *ḥadīth*, given by al-Ghazālī, runs: 'He who has two daughters or two sisters . . .'. See al-Ghazālī, *Iḥyā'*, II, pp. 54–5.
26. *Ibid.*, p. 55.
27. See below, Chapter 9.

born a Muslim and is subsequently, under the influence of education, confirmed in Islam or turned away from the straight and narrow path.[28]

It is therefore not surprising that Muslim society and the Muslim family create around gestation and the coming of a child an atmosphere of religiousness in which divine assistance and protection accompany the mother and the newborn infant. A pregnant woman who dies during pregnancy or in childbirth goes straight to paradise. The same is true of babies, who become the 'birds' of paradise, in other words, one of its embellishments. Several *ḥadīths* offer confirmation of the paradisiac nature of childhood. In one of them it is said that 'the child's fragrance is a breath of heaven'.[29]

It follows that a child's arrival in a home is at once a serious event and an occasion for rejoicing. In this, Islam is no different from other civilizations. What sets it apart however is the significance it attaches to interpersonal relations, including the child's relationship with its parents, in a community context in which divine immanence sets its specific stamp on the emotional, moral and social climate of the family and of the community as a whole. This specific stamp derives from the piety of individuals and their belief in God. The love received by children from birth and the care bestowed upon them are like a right which they enjoy by virtue of their divine essence, and like a religious duty imposed upon their parents.

It is related that one of the Prophet's Companions, having one day seen him kissing his grandson al-Ḥasan, made the following remark to him: 'I have ten children and I have never kissed any of them.' To which the Prophet replied: 'He who is not capable of compassion merits no compassion.'[30]

One day, the same al-Ḥasan, playing in the Medina mosque, stumbled and hurt himself when the Prophet was in the pulpit. The Prophet interrupted his sermon, hastened to the child's side, took him in his arms and recited the verse: 'And know/Ye that your possessions/And your progeny/Are but a trial' (VIII. 28).

Al-Ghazālī also adds that the caliph Yazīd Ibn Mu'āwiya recounted the following anecdote concerning his father:

> My father sent one day for al-Aḥnaf Ibn Qays. When he appeared, the caliph asked him the following question: 'Tell me, Abū Baḥr, what do you think of

28. This is the meaning of the famous *ḥadīth*: 'Children are born in the state of nature and it is their parents who make them Zoroastrians, Jews or Christians.' Because of this characteristic of Islam, several orientalists have been led to say that Islam is a natural religion, which is an absurdity. For a proper understanding of this idea of the conformity of Islam with human nature, one may usefully refer to the philosophical novel *Ḥayy Ibn Yaqẓān* by Abū Bakr Ibn Ṭufayl (an Andalusian philosopher and doctor who died in 1185) in which the author demonstrates that human beings can, through the mere exercise of their faculties, discover all the truths revealed in the Qur'ān.
29. According to al-Ghazālī, *Iḥyā'*, II, p. 218.
30. *Ibid.*

children?' To which al-Aḥnaf replied: 'O prince of the faithful, know that they are the fruit of our hearts and of our backbones, whereas we are for them a submissive land and a protective sky. Thanks to them, we can face any ordeal. Therefore, if they ask you for anything, give it to them, and if they grow peevish, try to bring them round. In this way they will give you their affection and will love you to the full. And let not your presence be an intolerable burden to them so that they end up not being able to bear you and even wishing for your death and no longer seeking your company.'[31]

In a work entitled *Tuḥfat al-mawdūd bi-aḥkām al-mawlūd* [Prescriptions Concerning the Newborn Child], Ibn al-Qayyim al-Jawziyya codified all the ritual acts serving to welcome and accompany newborn children throughout their childhood.[32]

The author brings together all the Qur'ānic verses and *ḥadīths* concerning childhood, from the marriage of the parents and the pregnancy of the mother to the child's maturity, and including his or her gestation and birth and the various stages in his or her development. As an epigraph to the first chapter the author places a celebrated *ḥadīth*, worded as follows: 'Marry affectionate and prolific women for I shall take pride in your number before the other prophets on the day of the Last Judgement.'[33]

Half of the book (eight chapters out of seventeen) is devoted to the prophetic tradition concerning the equal reception and treatment to be accorded to girls and boys, the sacramental formulas to be pronounced in the ears of the newborn child[34] and the festivities[35] to be organized on the seventh day following birth, at which time the boy is usually circumcised.[36]

The author also devotes a long section to the choice of first name for the newborn child and to all its symbolic associations. This choice is the exclusive

31. *Ibid.*, p. 217.
32. Ibn al-Qayyim al-Jawziyya, 1983.
33. *Ibid.*, p. 12.
34. The call to prayer (*al-adhān*), which is to be divided into two parts: the first being the words of the profession of faith (*shahādatān*), which are to be pronounced in the right ear, and the second, which is the call to prayer proper (or *iqāma*), which is to be pronounced in the left ear.
35. Essentially the ritual sacrifice of a sheep (*'aqīqa*) and the organization of a feast for relatives and friends in order to celebrate the arrival of the newborn child. This is a ritual that existed before Islam and that was maintained and codified by the new religion. Nearly a third of Ibn al-Qayyim's book is devoted to it.
36. This is a rite that goes back to Abraham and that was followed by all the successive prophets. Ibn al-Qayyim al-Jawziyya devotes a long chapter to circumcision (50 pages) and stresses that the goal is to achieve purity (*ṭahāra*), which all Muslims must acquire through ablutions (major and minor) and hygiene in order to be able to discharge the duty of prayer and fasting. The foreskin causes a retention of urine, which is a source of impurity. The author gives other reasons for circumcision which it would take too long to enumerate here.

right of the father who, if it is in the child's interest, can change his or her first name.

The following four chapters deal with the affection to be shown to children. The Prophet did not hesitate to take young children in his arms or carry them on his shoulders and take them to the mosque at prayer time.

Then there are several chapters giving guidance on infant care and the education of children. Al-Jawziyya thus begins with a section on the obligation of parents to educate their children, give them instruction and treat them equally.[37] In the Islamic perspective, the education in question, in the early stages of life, extends beyond mere upbringing and includes a real grounding in the Islamic faith and rules of life. Thus the profession of faith formula, or *shahāda*, is what a Muslim must hear first and last, in other words, at birth and at death. But the introduction to religious practices proper begins at the age of 7 with prayer.

Speaking to parents, the Prophet declares: 'Order your children to say their prayers as soon as they reach the age of 7. At the age of 10 beat them if they do not do so. And give them separate bedclothes.'[38]

Another *hadīth* runs as follows: 'One of the child's rights consists in the obligation for the father to choose a good first name for the child and to educate him or her properly.'[39] Similarly, in another *hadīth* it is said that: 'One of the child's rights in respect of the father is to be treated on an equal footing with his or her brothers and sisters.'[40] This equality of treatment concerns girls and boys alike. The author recounts stories showing the Prophet's reprobation of those who adopt a preferential attitude towards boys.

This part of the book ends with a discussion of the reciprocal nature of the rights and duties existing between parents and children, as exemplified in the following verse: 'Serve God, and join not /Any partners with Him. /And do good /To parents, kinsfolk, /Orphans [. . .]' (IV. 36).

Al-Jawziyya dwells here on the term 'kinsfolk' in order to highlight the reciprocal nature of rights since one is both someone's child and someone else's parent. Aspects of infant care are then covered concerning breastfeeding, the gradual introduction of solid food, the treatment to be applied when the first teeth are cut, the way in which the baby's cries and tears are to be regarded, weaning, emotional upsets and how to deal with them. The author lays particular emphasis here on weaning, which must be gradual, and food, which must be given in moderate amounts.

The author then deals with the moral education of children who, he says:

> need especially to have their characters moulded, as they grow up with the habits instilled in them by their teachers in their infancy, such as anger, impa-

37. Ibn al-Qayyim al-Jawziyya, *op. cit.*, pp. 176ff.
38. *Ibid.*, p. 176.
39. *Ibid.*, p. 177.
40. *Ibid.*, p. 178.

> tience, haste, immoderation, absent-mindedness, brutality and greed, and it will be difficult for them, once they have reached adulthood, to get rid of these defects [. . .]. Most people of poor character were made that way by their early education.[41]

Likewise, on reaching the age of reason, children should, according to the author, 'take care not to frequent the idle or to give ear to coarse language, heresies and pettifoggery [. . .] as that might become a habit in them of which they will never be able to free themselves.'[42]

Children, still according to the author:

> should be encouraged to give more than to receive, so that they acquire the qualities of generosity and hospitality. They should beware of laziness and idleness and train themselves to endure fatigue, just as they should beware of engaging excessively in food, speech and sleep [. . .] One should exercise extreme vigilance so as to ensure that they do not ingest anything likely to disturb their minds, such as alcohol or similar [. . .].[43]

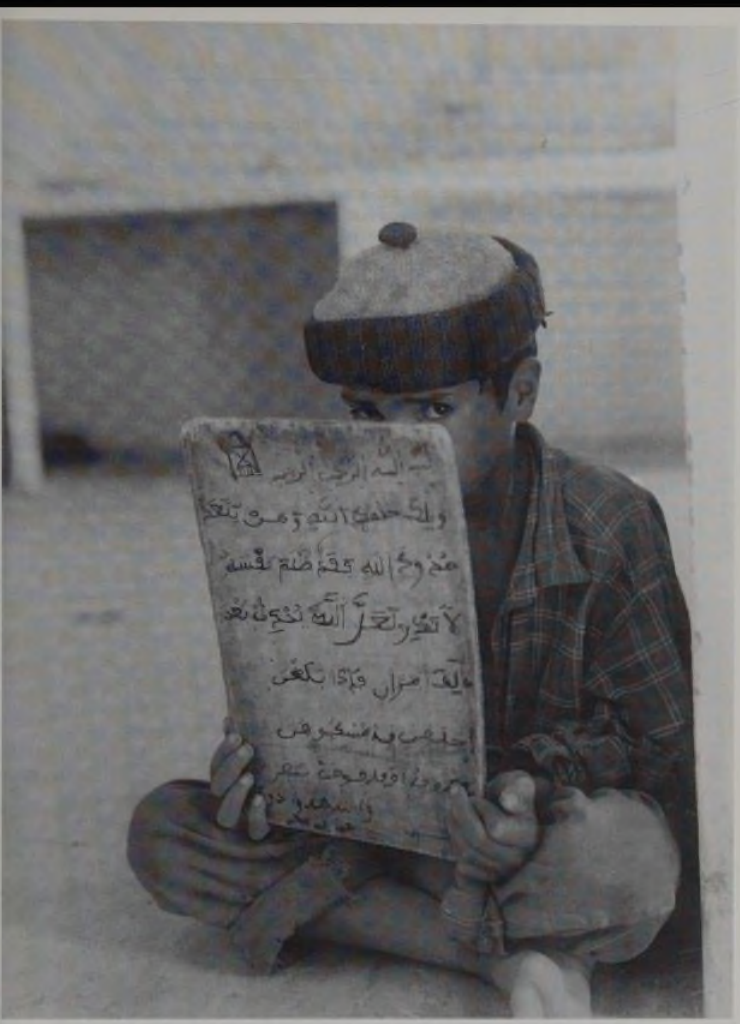
In the case of boys, 'they are forbidden from wearing silk clothes, as that might make them effeminate, according to the Prophet, who said: "Silk and gold are forbidden for the men of my community, and permitted for women." '[44]

The author concludes this part of his book with recommendations to the father regarding the proper training that he should give to his son.[45] If he sees that he is of a studious bent, he should send him to school. But if the child prefers war games and horse riding, he should encourage him in that direction 'as he will thus be more useful to the community'; and if he shows a liking for 'a lawful and profitable trade', he should arrange for him to be taught it. 'All this of course after inculcating in him the essentials of his religion.'[46]

Islam and the rights of the child

The way in which a child is received by the family and by the community in Islam reflects a set of legal obligations on the part of the parents, and indeed of the members of the community as a whole, from which the fundamental rights of the child can be derived. However, it should not be overlooked that the person-to-person relationship in Islam, including the father–son relationship, is a triangular relationship in which God is omnipresent owing to the

41. *Ibid.*, p. 187.
42. *Ibid.*, p. 188.
43. *Ibid.*, p. 179.
44. *Ibid.*, p. 189.
45. The author writes mainly of boys. Needless to say, girls should benefit from the same attention.
46. Ibn al-Qayyim al-Jawziyya, *op. cit.*, p. 190.



Pupil at the Qur'ânic school, Djelfa region (Algeria)
UNESCO/Sean Hudson

fact that He is at one and the same time the mediator of that relationship (all Muslims being brothers in God), its starting-point and its ultimate end. For this reason, the parent–child relationship goes beyond the level of instinct or even of full-blown love and assumes a sacred character. This relationship is dialectical and such that the love and respect that parents have for their children spring from the affection and veneration that they have for their own parents. This veneration of parents is strongly emphasized in a famous verse which links the extreme consideration one should show towards one's parents to the worship of God:

> Thy Lord hath decreed that ye worship none but Him, and that ye be kind to parents. Whether one or both of them attain old age in thy life, say not to them a word of contempt, nor repel them, but address them in terms of honour. And, out of kindness, lower to them the wing of humility, and say: 'My Lord! bestow on them /Thy Mercy even as they /Cherished me in childhood' (XVII. 24).

This parent–child relationship is further consolidated by a prophetic tradition to the effect that a child properly educated in the way of Islam is for his or her parents a source of pride in this world and a means of being raised higher in the sight of God in the next world, because of the prayers and supplications he or she addresses to God on their behalf.

Furthermore, with regard in particular to boys, the Qur'ān emphasizes that: 'Wealth and sons are allurements /Of the life of this world: /But the things that endure, /Good Deeds, are best /In the sight of thy Lord, /As rewards, and best /As (the foundation for) hopes' (XVIII. 46).

The first assertion contained in this verse is often quoted alone in order to stress the importance, from the social point of view, of male offspring. Without pretending to be unaware of this aspect of human psychology, the Qur'ān issues a warning however against the vanity and intoxication found in these two aspects of power represented by riches and sons, which are but a reminder of the pre-Islamic outlook. There are indeed many such warnings in the Qur'ān against the feeling of pride produced by a large number of sons or indeed of members of the community, since, again in the pre-Islamic outlook, a large number, or *kathra*, is usually synonymous with '*iẓẓa*, or pride, and a small number, or *qilla*, is a source of *dhilla*, or humiliation.[47] This notion of '*iẓẓa* was completely transformed by Islam, which made it an attribute of God. In the words of one *ḥadīth*: 'And he who seeks such pride in the sight of men, God casts him down.'[48] And the Qur'ān says: 'How oft, by God's will, /Hath a small force /Vanquished a big one? /God is with those /Who steadfastly persevere' (II. 249).

47. See B. Farès, *op. cit.*, pp. 118–19.
48. Al-Suyūṭī, 1931, III, p. 164.

Thus the children sought by Islam are those who are born in accordance with the healthy nature (*fiṭra*) given by God, who are brought up in the way of God and who lead their lives accordingly. They will receive God's aid and will overcome adversity. It matters little how many such children there are, for they always enjoy divine protection, which is the only true source of power (*'izza*) and glory (*majd*). Such children must enjoy a number of rights in respect of their parents.

First and foremost among these rights is the child's right to life. This right is sacred and is asserted right from the foetal stage, as we have already seen. From this right derive the child's rights to affection, protection and care, which must be provided by the parents. He or she also has a right to be suckled for two whole years (II. 233). The child's right to be supported by the father is enshrined in the Qur'ān, and at the same time this is considered by the *sunna* to be the way of spending money that is most appreciated by God. Indeed the Prophet is reported to have said: 'Of the dinar that you spend in the path of God, the dinar that you pay towards liberating a slave and the dinar that you give in alms to a person in need, the one that ensures you of the greatest reward in the sight of God is still the one that you spend to support your family.'[49]

This right to financial support is not a right linking the child to the father alone. It may also be exercised in respect of the community, if the child is in need. Speaking of the righteous, God refers to them in particular as those who 'in their wealth and possessions [. . .] remembered the right of the needy, him who asked, and him who for some reason was prevented from asking' (LI. 19).[50]

The rights of a child who is an orphan are strictly preserved, whether in the form of his or her right to a share in *zakāt*, if in need, or of the safeguarding of his or her heritage, in cases of succession.

Concerning the heritage of orphans, the Qur'ān is extremely severe in respect of guardians who might be tempted to engage in certain acts of fraud: 'And come not nigh /To the orphan's property, /Except to improve it' (VI. 152; XVII. 34; IV. 2, 10).

In addition to his or her share of *zakāt*, the orphan also has a right to the spoils of war. Accordingly, the Qur'ān stipulates: 'And know that out of /All the booty that ye /May acquire (in war), A fifth share is assigned /To God, and to the Apostle, /And to near relatives, /Orphans, the needy /And the wayfarer' (VIII. 41; LIX. 7).

49. Al-Ghazālī, *Ihyā*, II, p. 49.

50. This verse characterizes *zakāt* (obligatory alms-giving) as a right for the needy and not as a voluntary act of charity. This right is so highly regarded in Islam that it constitutes the third pillar of religion after the profession of faith and prayer. It is an obligation, non-observance of which is placed on the same footing as apostasy.

The same applies to propitiatory money to which orphans have a right (II. 315). The aid to be given to the poor and to orphans is described as the best earnest of righteousness (II. 177).

What is more, the ill-treatment of orphans is described by God as a characteristic feature of the miscreant: 'Seest thou one /Who denies the Judgement /(To come)? /Then such is the man /Who repulses the orphan with harshness' (CVII. 1–2).

Lastly, to emphasize His special concern for orphans, God reminds Muḥammad that he was an orphan himself and that He gave him a refuge. He therefore charges him never to treat orphans harshly (XCIV. 6; XCIV. 9).

Of course, this injunction to the Prophet is a very explicit way of reminding the members of the entire community of their duty towards orphans. It may even be said that, in Muslim society, orphans receive preferential treatment on account of the fact that the Prophet himself lived as an orphan (which could only be an expression of divine will which chose from all humanity an orphan, in other words a vulnerable being, in order to entrust him with the Message) and that God reiterates over and over again in the Qur'ān that orphans should be treated with care and kindness. The last verse quoted speaks of *qahr*, which is translated as 'oppression'. In fact, *qahara* means to vanquish, to subdue, to subjugate. These are the strong senses of the verb. But the same verb also means to wound someone in their pride, to vex, to outrage, to hold up to ridicule. This shows the extreme care that God recommends in the treatment of orphans who, owing to the misfortune by which they have been struck, are highly sensitive beings.

Of all the rights of the child, we have kept for the end of this enumeration the right to education[51] in order to highlight the fact that this right may be seen as a kind of crowning epitome of all the others.

The meaning and ultimate purpose of the life of a being who is born into a Muslim family are to grow, to develop and to live his or her adult life as a good Muslim. This is not possible unless the parents endeavour, from the very moment of birth, to give their child a real Islamic education. This education, as was noted earlier, is rooted in a general climate of piety such that individuals are led at all times to consider God through the various manifestations of His creatures. As children are privileged creatures, any act in their regard must be imbued with this piety, or *taqwā*, which alone enables parents and teachers not to debase that *fiṭra* with which God endows all children. A proper Islamic education consists indeed in remaining true to this *fiṭra* and allowing the pupil gradually to discover the signs (*āyāt*) of God which are manifested in all aspects of creation, including in human nature itself (LI. 20–21).

51. As the present work contains a chapter on education, we shall mention here only a few of its basic features.

This education must be all-embracing and aim to develop all the potential of each human being, physical, intellectual, moral, spiritual and aesthetic.[52]

The first act by which the child's manifest or explicit education[53] must begin is learning how to read, in pursuance of the first order given to Muḥammad by God, and which opens the first *sura* of the Qur'ān: 'Read!'

It is not surprising that in a culture based on the *Kitāb*, or Holy Book, the starting-point should be learning how to read, which provides access to the ideas contained in the Holy Book. This access to the Book through reading was to determine the whole intellectual and scientific development of the community and to produce what some call 'the miracle of Islam'; for in the Islamic conception of knowledge there is a constant dialectical relationship between learning and piety. The more a man is pious, the more he will seek to advance in knowledge, and the more he advances in knowledge (by deciphering the famous signs that God has enclosed in all aspects of creation), the more he will advance in piety; with the result that his thirst for knowledge will never be slaked. For this reason Islam prescribes *qanā'a* (or making do with little) in all things, except in respect of knowledge (XX. 114).

Youth and the spirit of the *futuwwa*

The age of the *kuttāb* is the time when children receive the major part of their religious, intellectual, moral and social education. Upon learning the Qur'ān (orally and in writing), they begin to discover the *sīra* of the Prophet, the early history of Islam and the role played by the Prophet's Companions and the four Orthodox Caliphs. The teacher, in the *kuttāb*, is called *mu'addib*[54] (educator), as his role consists in training the pupil, through words and action alike, to acquire the *ādāb* of the Qur'ān and of the *sunna*, that is to say, models of behaviour as laid down by the two sources of Islam.

When he leaves the *kuttāb*, around the age of 13 or 14, the young Muslim has attained puberty. By virtue of this fact alone, he accedes to the state of *taklīf* (legal responsibility) and must, in addition to the duty of prayer, which he has been required to practise since the age of 7, comply with all the religious obligations to which adults are subject: *zakāt*, fasting in the month of Ramadan, the pilgrimage to Mecca (if possible) and even the bearing of arms in the event of *jihād*.

52. See C. Fitouri, 1985, pp. 161–75.

53. In contrast with the diffuse education that children receive in their family environment until the time when they have to start attending the *kuttāb* (between the ages of 4 and 6, depending on the community).

54. The teacher in a modern-type school is called *mu'allim*, or teacher, as his role consists essentially in instructing or teaching.

This change of status[55] seems so sudden that it might be wondered whether the concept of youth exists in such a society. Indeed the period of adolescence (the period when young men prepare for working life through study or an apprenticeship) seems very short in Muslim society. Ibn al-Qayyim al-Jawziyya sets it between the age of 10 and puberty (13–14).

Although not yet at the stage of *taklīf*, the 10-year-old child is supposed to have acquired a degree of intellectual maturity and hence a sufficient knowledge of Islam (the Qur'ān and the *sunna*) for him to be able to proclaim in all honesty that he is a Muslim. This is the reason why the Prophet recommended that children should be urged, from the age of 7, to practise prayer, and that they should be physically punished at the age of 10 if they do not do so. Between the age of 10 and the age of puberty, the period of learning and reflection seems sufficiently long for the individual to be invested with all his duties and obligations.

In Islamic society children are often put into an apprenticeship at the same time as they are enrolled in the *kuttāb*. This is also true of girls, who, in addition to the instruction they receive in the same way as boys,[56] are given training at a very early age in household tasks and often learn a craft, either in their homes with their mother or close kin, or from a recognized teacher. Hence the social integration of young people is achieved at a fairly early age and without greatly impairing their personal development. This integration is facilitated by the fact that Islam places each individual who has reached the stage of *taklīf* under the obligation to acquire the means of achieving *kasb ḥalāl* (licit gain), usually by engaging in manual work (trade, craftwork or agriculture). The example of great scholars having pursued two parallel careers, one for gain in the form of manual work and the other scientific, without thought of profit, is not rare.[57] The reason is that, according to the Islamic outlook, work is considered to be a kind of tribute to God and is in some respects akin to '*ibāda* (religious practice).[58] People do their work as well as they can in accordance with their conscience and

55. Before puberty, a person is not liable to criminal punishment, or *ḥuddūd*, such as amputation of the hand in cases of theft. 'It is related that the caliph 'Uthmān was called on to judge a boy who had committed theft. He is reported to have said: "Look at his pubes." They looked and as they did not see any growth of hair 'Uthmān did not order the amputation.' Ibn al-Qayyim al-Jawziyya, *op. cit.*, pp. 234–5.
56. This is a tradition of the Prophet, who himself instituted, at the mosque of Medina, special days for the teaching of girls and women. Subsequently, girls and women continued to receive instruction until the time when the Muslim world went into a period of stagnation.
57. The example of Imam Saḥnūn al-Tanūkhi, the Grand *Qadi* of Kairouan (160–240/776–854) and the second leader (after Mālik Ibn Anas himself) of the Mālikī rite, is significant in this regard. He agreed to assume the office of *qadi*, on condition that he receive no salary, and continued to work his land himself to earn a living.
58. See C. Fitouri, 1983, pp. 75–101.

so that they can be absolutely sure that the profit they thus obtain is lawful. They also do it joyfully, for it is through work that man, as a creature of God, is revealed to himself and discovers with wonder the creative faculties (from the five senses to the imagination) with which he has been endowed by God, fully justifying the fact that He created him 'in the best of moulds' (XCV. 4). Since man possesses nothing – not even his own body – he must pay tribute to the Creator, who made him the depositary both of his faculties and of the matter upon which they are exercised, through work, to create wealth (agricultural produce, manufactured objects, works of art, etc.), which is a source of licit gain and benefit for the individual and the community alike.

Work does not then have any expiatory aspect in Islam. The effort and indeed weariness that it entails increase the standing of the worker, who must be treated with much deference and who must above all be paid fairly and promptly. According to one prophetic tradition, the worker's salary should be paid even before his sweat has dried.

This rapid social integration, whereby the individual goes from a very short adolescence to adult working life, should not cause us to forget the social climate surrounding interpersonal relations, whatever the differences in age among individuals. The work ethic, like the whole of the general moral climate, is marked by this interpenetration of the temporal and the spiritual, of the sacred and the secular.

The point is that, in the words of Seyyed Hossein Nasr:

> Islam, because it is the religion of Unity, has never, in any field, made a distinction between the spiritual and the temporal, between the religious and the secular. The very fact that in Arabic, Persian or any other Islamic language there exists no appropriate word to say 'temporal' or 'secular' is the best proof that the corresponding concepts do not exist in Islam. And if such a division cannot exist, it is because, for Islam, Caesar's kingdom has never been given to Caesar. Based as it is on Unity, Islam refers to a total way of life from which nothing is excluded. Established in accordance with this standpoint based on the real nature of things, its legislation is in all respects realistic. It takes into account not only the saint, but also the ordinary man or woman, with all his or her strengths and weaknesses.[59]

The way of life through which human beings are continually moulded in their relations with others (*mu'amalat*)[60] is always to some extent based on the ideal model furnished by the life of the Prophet. Speaking of the *Ḥadīth*, Seyyed Hossein Nasr says that:

> for Muslim society it is a vital factor of integration, as the everyday life of millions of Muslims all over the world has been modelled on the *sunna* and the *Ḥadīth* of

59. S. H. Nasr, 1975, p. 37.

60. The term *mu'amalat* is translated in legal language as 'transaction'. Used in ordinary life and in a broader sense, it designates human intercourse.

the Prophet. For some 1,400 years, Muslims have endeavoured to awaken in the morning as the Prophet awoke, to eat as he ate, to wash themselves as he washed himself, and even to cut their nails as he did. There has been no stronger unifying force for the Muslim peoples than the presence of this model for the most basic acts of everyday life. A Chinese Muslim, although belonging to the Chinese race, has a bearing, a type of behaviour and a way of acting that are in some respects reminiscent of the attitude of a Muslim on the Atlantic coast, and the reason for this is that the two peoples have for centuries conformed to the same model. In both of them can be perceived something of the Prophet's soul. It is because of this essential factor of unification, this model of a common *sunna*, or way of living, that the atmosphere in a Moroccan bazaar produces the same impression as that of a Persian bazaar [. . .] This similarity stems essentially from the Qur'ān, and then, more immediately and more tangibly, from the Prophet's 'presence' in the community by virtue of his *Ḥadīth* and his *sunna*.[61]

The *futuwwa*

Social integration thus seems to be greatly facilitated not by conformity to the same model (as this conformity is inconceivable for ordinary folk since the Prophet's personality is exceptional), but by every Muslim's aspiration to get as close as possible to an ideal of life shown in the Prophet's *sīra*. However, Prophet though he was, Muḥammad was still a man, and as such the *sīra* provides a model for all stages of life, from birth to death. In describing these stages, the Islamic writings[62] show great delicacy and subtlety. These writings distinguish, on the basis of the Qur'ān, seven intra-uterine stages. From birth to puberty, the child passes through ten stages. For each of these stages there is a name. From puberty until the time when his beard is fully formed, he is called *fatā*, or young man. Ibn al-Qayyim al-Jawziyya points out that the term *fatā* designates a generous man. 'And when the beard is fully grown, he will be called *shābb*, or young man, until the age of 40 years.'[63]

These same writings tells us that between the *futuwwa* (14–18 years) and the end of the *shabāb*, or youth (40 years), men are in their physical and intellectual prime. Adulthood is between the ages of 40 and 60. Muḥammad received his first revelation at the age of 40 and the last one at around the age of 60. Before then, and from the time of his childhood, he engaged in trade to which he devoted himself during his *futuwwa* and his *shabāb*.

The concept of *futuwwa*, in the ordinary sense, refers then to the period of life situated between the end of adolescence and the beginning of adulthood, which is commonly designated by the term 'youth'. A period of idealism and dreams, it is characterized in all cultures by generosity, impulses of

61. S. H. Nasr, *op. cit.*, p. 103.
62. See Ibn al-Qayyim al-Jawziyya, *op. cit.*, pp. 236–7.
63. *Ibid.*, p. 237.

the heart and of the mind, impetuosity and bravery, self-abnegation and even self-sacrifice. Because of all these qualities, youth is, at all periods and in all civilizations, the driving force of history.

In the article 'Futuwwa' in the *Encyclopaedia of Islam*, we read the following:

> In the pre-Islamic and early Islamic periods, the Arabic language does not use the term *futuwwa*, but only *fatā*, itself used in the singular rather than in the plural, in that the word denoted individuals, not groups. At that time the *fatā* was a man still young and vigorous, valiant in warfare, noble and chivalrous: an essentially personal attitude and, though obviously linked with tribal society and its combats, one not dependent on any collective activity or explicit religious belief; and indeed it so happens that a modern work will still extol this type of character under the name *futuwwa*. The semi-legendary model for it in ancient Arabian society was Prince Ḥātim al-Ṭā'ī; but, in Islam, the gradual growth of the figure of 'Alī has resulted in his being regarded as the *fatā* par excellence, as is expressed in the old saying *'ma'l-fatā illa 'Alī'* (There is no *fatā* but 'Alī).[64]

Louis Massignon, in a comprehensive study, gives the following definition of the *futuwwa*:

> The *futuwwa* is an Arab virtue possessed by the errant knight, the adventurous hero *fatā* (in Turkish: *yigit*; in Persian: *jowānmard*). In the Qur'ān, *fatā* designates Abraham in Ur, destroying the idols of the City (Q.21, 61), and the Seven Sleepers of Ephesus, refusing to sacrifice to the idols and destined to rise again shortly before the Judgement in order to lead with Khadir the army of the Mahdi (Q.XVIII). The *futuwwa*, in pre-Islamic Arabia, is the ideal summit of the 'noble virtues' (*makārim al-akhlāq*), a form of bold and provocative behaviour on the part of isolated individuals. Islam took over the word to designate its first warrior heroes (like 'Alī). Indeed the vocation of the founder of Islam is not so far from partaking of this boldness, in his fierce claims as an outcast from the two 'privileged' religions: a son of Ishmael, circumcised, excluded from the Abrahamic sacrifice, Muḥammad re-establishes it, in the teeth of Israel and six centuries of being failed by Israel, by his Isrā' to Jerusalem, his change of Qibla, and his Farewell Pilgrimage (*Waqfat 'Arafāt*, in 631); unbaptized, excluded from redemptive 'fraternization' with Jesus, Muḥammad calls on the Christians, by his proposed ordeal (*Mubāhala* of Medina, 631), to hasten the Return of Judge Jesus, and to recognize his call to hold a feast among 'predestined ones', at the Heavenly Table of Hospitality. *Futuwwa*, in Arabic, is the antithesis of *muruwwa*, 'consideration, worldly honourability' within the clan; it is an excessive welcoming gesture outside the group, made to a foreigner, to an enemy: like the right of asylum (*ikrām al-ḍayf*), holy hospitality: *asylum, perfugium*, the antithesis of *jus commercii*; for it is a disinterested act (see *Rev. Int. Croix-Rouge*, June 1952, 448). [. . .] As a technical term, *futuwwa* has been the subject of monographs in manuals of asceticism and mysticism since the 10th century AD (Sullamī).[65]

64. C. Cahen, *EI²* art. 'Futuwwa'.
65. See L. Massignon, 1952.

Thus the *futuwwa* originally stood for the sum of all the noble moral, social and warlike qualities that could be boasted by a young man whose conduct was meant to be exemplary. This manly ideal incorporated the known virtues of the Arabs, long before Islam, and added thereto those derived from Islamic ethics as established by the Qur'ān and put into practice in the *sīra* of the Prophet.

When the *futuwwa* developed subsequently, becoming a kind of trade guild, it still retained as its primary point of reference this ideal, young, valorous type of man, ever ready to draw his sword, in defence of his honour of course, but also of all the values underpinning his community. Jean-Claude Vadet, inquiring into the true meaning of the *futuwwa*, as described in the work by al-Ḥusayn al-Kāshifī, and seeking to determine whether it is based on a professional ethic or a mystical ethic, reaches the following conclusion:

> One point must be noted: the earliest professions to be enumerated were military professions, which is to say that there the *futuwwa* also became *furūsiyya*, a 'chivalry' serving to combat the non-Muslim enemy. Regarding this *furūsiyya*, Ibn al-Jawzī, who was exactly contemporaneous with the caliph al-Nāṣir, unhesitatingly declared: 'There exists a chivalry at once legal and prophetic [i.e. established by the Prophet] which may unreservedly be said to form part of the highest acts of worship that can be performed through the combined action of hearts and bodies. These practices lead them to the eternal Glory of the Merciful God and to high heavenly sojourn. What is good in them comes from God's favour and kindness, the evil by which they are tainted is the work of the Devil, and God and His Prophet cannot thereby be marred.'
>
> The conclusion of this lofty disquisition is that single combats, by which we should understand sparring and tournaments, wrestling (*muṣāra'a*), archery contests (*munāḍala*), and horse and dromedary races (*mustāhaqa*), are perfectly lawful and compatible with Islamic law.[66]

The similarities between the *futuwwa* and the mystical *ṭariqa* (order) are quite striking and have been noted by several authors. But while the former is based on an ethic of action and transaction, the latter is predicated on meditation and contemplation. The ethic of action on which the *futuwwa* is based is nevertheless coloured by a certain mysticism whose two apparently opposing poles are *kasb* (or gain[67]) and *faqr* (or poverty).

M. Golpinarli writes in this connection that:

> Between the *futuwwa* and the *ṭariqa* there is a common feature, and that common feature is mysticism. Between these two movements there is however an essential and fundamental difference, and it lies in the fact that the men of the *futuwwa* have never considered the world to be a negligible quantity. To earn one's liv-

66. J.-C. Vadet, 1978, p. 66.
67. The reference here is to *kasb ḥalāl* (licit gain) and not to profit.

> ing without breaking the Law through the exercise of a profession has always been one of the *sine qua non* conditions of the *futuwwa*. The practice of abnegation, charity and solidarity was deemed to be just as necessary. The religious orders took their followers out of the world, whereas those who espoused the *futuwwa* were on the contrary duty bound to live in the world and there to engage in gainful activity.[68]

The *futuwwa* movement has constantly intrigued Western commentators, some of whom have seen in it a foreshadowing of the European trade guilds, while others have viewed it as 'the ancestor of the operative lodge of the Freemasons of the West'.[69] In actual fact, it is a movement that emerged from the very depths of Muslim society and that is based on a belief in *al-kasb al-ḥalāl*, or lawful gain which enhances the value of man, first in the sight of God, then in his own eyes and those of society.

This desire for lawful gain led to the development in Muslim society of an unquestioning belief in the value of remunerative work and an ethic governing transactions. The Muslim is first and foremost a worker and a productive agent. Islam condemns in no uncertain terms idleness and social parasitism. Moreover, to be a Muslim, in the full sense, it is necessary to be able to perform the *zakāt*, which is the third pillar of Islam. But this is not possible unless one has an income of one's own: hence the need for a remunerative activity producing earnings that are completely lawful, or *ḥalāl*.

This notion of what is lawful and what is unlawful occupies a predominant place in books of *fiqh* owing to the fact that the acts and deeds of Muslims are dictated by a concern with what is lawful and a painstaking effort to avoid anything that is in the slightest way unlawful. This vigilant quest is the cornerstone of professional ethics and conscientiousness for all the trade associations and professions. Whether in regard to service activities, agriculture, craftwork or especially trade, any hint of deceit, fraud or cheating, and indeed any suspicion of fraudulent behaviour or corrupt practice, are severely condemned and punished by Islam. In his treaty *al-Ḥalāl wa'l ḥarām fi'l-islām* [On Lawfulness and Unlawfulness in Islam], Yūsuf al-Qarḍāwī states:

> The rule in the matter of gain is as follows: Islam does not allow its followers to realize gain as they wish and by no matter what means. On the contrary, it clearly shows them the lawful ways and the unlawful ways of earning one's living, with due regard for the general interest. This distinction is based on the general principle according to which any means of earning money that enables individuals to realize a gain only by harming others is illegal; whereas those means that safeguard the reciprocal interests of individuals, on the basis of mutual consent and justice, are legal.[70]

68. Quoted by J.-C. Vadet, *op. cit.*, pp. 75–6.
69. *Ibid.*, p. 89.
70. Y. al-Qarḍāwī, 1972, p. 141.

Newspaper boy, Tunisia
UNESCO/Dominique Roger

The *futuwwa*, which is a movement based on militant devotion, is not confined to the quest for lawful gain, but seeks to achieve in this world an ideal way of life that guarantees salvation in the next world. Accordingly, lawful earnings and the work from which they derive are but means of sharing with others the goods that God bestows on His creatures, and of thereby achieving that brotherhood in God which is the ultimate purpose of the Islamic community. The generosity, or indeed the prodigality, that breeds *faqr* (poverty) is the hallmark of the *fatā*. As a clear expression of the extreme solidarity that exists among the *fityān*, this generosity has its source in the earliest Arab traditions and translates the teachings of the Qur'ān and the *sunna* into a mode of behaviour. From this point of view, the *futuwwa* represented, at the height of Islam, the spearhead of the community, its wakeful conscience and, consequently, its guarantee against stultification, stagnation and regression.

The earliest chroniclers show us:

> the *fityān* as young adults living in small communities, coming from varied social, ethnic (and, to start with, religious?) circles and, free from any sort of attachment to family (they were frequently bachelors), profession (even if they had one) or tribe, associating together to lead in common the most comfortable possible life, in an atmosphere of solidarity, mutual devotion and comradeship (with joint ownership of property) without which such an aim could obviously not be achieved. The setting was more extensive than that of a single town, in the sense that a fraternity existed between the *fityān* of each town and others elsewhere by whom they were received when travelling, like the old 'companions' in Europe. It seems that they wore a special costume. It was still largely under this aspect that Ibn Baṭṭūṭa, the famous traveller of the eighth/fourteenth century, was to see them when he encountered them among the common people in Turkish Asia Minor.[71]

This idyllic vision of joyous companions sharing all their property and living in perfect harmony is to be set against the idea that the *futuwwa* came into being in the big Islamic cities and that its primary purpose was to defend Islamic values. The *fityān* were thus in evidence behind every good cause, acting, sometimes with violence, 'in the service of good against evil'. Often their action went beyond the strict limits of a district or city and made itself felt in the arena of the state, when the object was to combat a particular caliph regarded as unjust or illegitimate. They were to be seen in Baghdad, 'standing together in defence of the caliph al-Amīn against the attacks of the Khurasanis who supported his brother al-Ma'mūn, or half a century later, in the cause of al-Musta'īn against the troops of al-Mu'tazz'.[72]

In around the sixth–seventh/twelfth–thirteenth century, the *futuwwa*

71. C. Cahen, *art. cit.*
72. C. Cahen, *ibid.*

movement formed links with the Sufis on the one hand, and with the guilds on the other. According to L. Gardet:

> In addition, the Abbasid caliph al-Nāṣir sought to take up and unify the principles of the *futuwwa*. He arranged for himself to be initiated and established a courtly *futuwwa*, to which he summoned the emirs of the entire Islamic world. Then, and only then, can one speak of a 'Muslim chivalry' in the strict sense. An aristocratic *futuwwa* thus came into being and for a while enjoyed some repute in Syria and Egypt. It by no means supplanted the popular *futuwwa*, which was directed not towards the princes and ruling classes but towards the craftsmen and tradespeople.[73]

Most of the chroniclers cited in the article 'Futuwwa' in the *Encyclopaedia of Islam* place the movement in the Middle East, and more particularly in Baghdad. It was not until after the fourth century of the Hegira that, according to the chroniclers, the movement spread to the Irano-Turkish world and Egypt. Already at that time the movement was degenerating into ill-reputed hordes referred to by such pejorative terms as *ayyarūn* (outlaws), *abwāsh* (rabble) or *shuṭṭār* (ruffians). In point of fact, all these negative attitudes towards the movement were not incompatible either with the class interests defended by an aristocracy firmly established in power, and that was not intending to yield before the protests of these groups of young people, or with the degeneration of the movement itself resulting from the stagnation and decadence of the Muslim world from the seventh–eighth century of the Hegira.

The fact remains that, at its beginnings, the *futuwwa* movement was solidly established in the Islamic cities, both in the East and in the Muslim West. Thus, in the period of the Aghlabid dynasty (184–296/809–909), the *futuwwa* was strongly established in Kairouan. Imam Saḥnūn (Grand *Qaḍi* of Kairouan and of Ifrīqiya from 233 to 240/847 to 858) was said to be proud of the *fityān* and often enlisted their services, and his son, Muḥammad Ibn Saḥnūn, was known by the nickname of '*shaikh al-futuwwa*'[74] (or 'boss' of the *futuwwa*).

73. L. Gardet, 1977, pp. 164–5.
74. M. al-Nayyāl, 1965, p. 131.

Chapter 9

THE MEANING OF ISLAMIC BROTHERHOOD

Chadly Fitouri

During the pre-Islamic period, or *jahiliyya*, the tribe was the basic unit of society throughout the Arabian peninsula. The great majority of members of a tribe were connected by bonds of kinship and generally belonged to the same lineage. They looked back to a common ancestor whose prestige, often magnified by legend, was each individual's main claim to glory. In many cases this ancestor and the chiefs who succeeded him possessed, in addition to their qualities as warriors, exceptional gifts as orators and poets. They were the spokesmen and defenders of their tribe.

As well as being the result of blood-ties, tribal affiliation could be acquired by alliance, adoption, clientship or allegiance. Since most members of the tribe were connected by blood-ties, tribal solidarity caused them to react more or less automatically to any attack on an individual member or any threat to the integrity of the group. Vendettas and punitive expeditions were the usual way of taking revenge or winning recognition of rights. This form of solidarity is admirably defined in the well-known pre-Islamic adage which says: 'Give a helping hand to your brother whether he is the author or the victim of an injustice.'[1] With the exception of southern Arabia,[2] where a relatively sophisticated civilization had flourished in certain towns, the arid and hostile desert of the Arabian peninsula was divided between rival tribes for

1. *Unṣur akhāka ẓāliman aw maẓlūman.*
2. Historians have often drawn attention to the contrast between the north and south of Arabia. Louis Gardet notes in this connection: 'There have been many attempts to describe the Arabs as they were before the Hegira, when they lived in nomadic tribes and engaged in long-distance caravan trade. Here we are referring to the Arabs of the north of the peninsula, the Saraceni (whence "Saracens"), to which the tribe of the Prophet Muḥammad belonged. The Arabs of the south, those of Arabia Felix, knew a civilization that was strongly influenced by Byzantium and Persia of the great kings. Monophysite or Nestorian Christianity and Judaism had become established in a number of their kingdoms.' L. Gardet, 1977, p. 30.

whom highway robbery was not only a source of income but a way of life, a form of self-expression and a school of bravery. Razzias were celebrated by poets and codified in epic tales handed down from generation to generation under the title, the 'Glorious Days of the Arabs' (*Ayyām al-'Arab*). These razzias were a source of enrichment both in terms of booty and of captured men and women who were reduced to slavery. Manual labour was despised in this warrior society. Transactions were not regulated by law but by customs that varied from one tribe to another. Barter, trade and usury were practised in conformity with these customs. Contracts were tacit rather than formal and were concluded by uttering certain esoteric phrases, shaking hands or throwing one's cloak to the ground. The family was governed by an uncompromising patriarchal system whereby the father had the power of life and death over its members. Girls were often buried alive at birth.[3] The wife or wives (polygamy was unlimited during this period) were nonentities. Marriages for momentary pleasure (*nikāḥ al-mut'a*) were widespread, as was unconditional repudiation. Women and minors had no rights of inheritance.[4]

Islamic solidarity: a radical change of perspective

The coming of Islam brought a thoroughgoing social revolution. Within a generation, Islam turned its back on a lawless society based on violence and robbery and constructed a society which was based on the rule of law and in which solidarity continued to be a fundamental social value but was henceforth conditioned by justice. The famous adage of the *jāhiliyya* was repeated and completed in a well-known *ḥadīth* which says: 'Give a helping hand to your brother whether he is the author or the victim of an injustice. If he is the victim of an injustice, give him a helping hand; but if he is the author of an injustice, try to dissuade him, for that alone is true succour for him.'[5]

This change of perspective, whereby solidarity is based on justice, was in itself a revolution in customs and feelings; it ushered in a new vision of the world of individual relationships and the relations between society and the individual.

FOUNDATIONS OF SOCIAL SOLIDARITY IN ISLAM

In Islam, individual relationships are triangular by nature; God is present in them as the mediator and the ultimate end. Brotherhood in God, which governs relations between all members of the community, is the basis of a new

3. For this practice known as *wa'd*, see Chapter 8 above.
4. For this aspect of social life during the pre-Islamic period see Ṣ. Maḥmaṣānī, 1948, II, pp. 26–7.
5. Ibn Manẓūr, *Lisān al-'Arab*, 1972, VI, p. 4439c.

type of solidarity in which feelings, intentions and acts are assessed in terms of *birr* (goodness) and *taqwā* (piety or righteousness).[6]

The Qur'ān repeatedly enjoins believers to 'Help ye one another /In righteousness and piety /But help ye not one another /In sin and rancour' (V. 2).

Mutual aid, which is the most visible form of solidarity, is thus only recommended by Islam when it is performed in an atmosphere of piety and for a good reason. There should be no mutual aid for sinful or evil purposes.

A Muslim should only give decisive support or *nuṣra* – that which wins victory (*naṣr*) over the enemy – to his brother in God if the cause is just. Thus by way of brotherhood in God – with all that implies in the form of mutual affection, solidarity and devotion – Islam establishes between the members of the Islamic community a new type of relationship based on piety, justice and goodness, three essential values derived from belief in one God. 'No one is really a believer', says one *ḥadīth*, 'as long as he does not wish for his brother what he wishes for himself.'[7] The pact of brotherhood established by the Prophet at Medina between the *muhājirūn* and the *anṣār*[8] is the outward manifestation of this brotherhood in God, which establishes a new form of solidarity through whose emotional, spiritual and moral overtones the members of the Islamic community resemble, as a famous *ḥadīth* puts it, 'a compact wall whose stones are welded together'. It is the basis of a form of solidarity that reflects a completely different perspective from that of tribal solidarity. This

6. *Birr* and *taqwā* are 2 Qur'ānic terms which sum up the whole of Muslim ethics. *Birr* designates the nature of actions that should be performed and *taqwā* the feelings and overall attitude that determine these actions. Thus in the 6 verses of the Qur'ān in which the term *birr* appears (II. 44, 177, 179; III. 92; V. 2; LVIII. 9) the word always refers to acts the believer should perform. Translators of the Qur'ān into European languages have had difficulty with this word, which has been rendered variously, depending on the context, as obedience to God and the performance of good works, devotion, goodness, piety and charity. Similar problems arise in the case of *taqwā*, which appears 15 times in the Qur'ān as a noun (II. 197, 237; V. 2, 8; VII. 26; IX. 108, 109; XX. 132; XXII. 32, 37; XLVIII. 26; XLIX. 3; LVIII. 9; XLVII. 56; XCVI. 12) and 240 times as a verb and in other derivative forms. *Taqwā* is the Islamic equivalent of what are called the Christian virtues, namely the set of permanent mental qualities which dispose towards the practice of goodness. The expression *ittaqa Allāh* (often translated as 'to fear God') actually implies the two notions of love and fear of God, depending on whether it is a question of doing or omitting to do something.
7. According to al-Bukhārī and Muslim and one of the forty 'incontestable' *ḥadīths* collected by al-Nawawī.
8. *Muhājirūn* means 'emigrants'. These were the first Muslims to leave Mecca for Medina before the migration of the Prophet himself. The *anṣār* were the Muslims of Medina who welcomed and supported the *muhājirūn*. The Prophet ordered every man among the *anṣār* to choose a *muhājir* and take him as a brother with all the legal implications of that act, including the right of heritage. The Qur'ān later abrogated that decision.

new solidarity is based on *taqwā*, piety or righteousness, and manifests itself in *birr*, in other words in all acts in which these qualities are involved. The Qur'ān teaches this clearly when it says that:

> It is not righteousness /That ye turn your faces /Towards East or West; /But it is righteousness – /To believe in God /And the Last Day, /And the Angels, /And the Book, /And the Messengers; /To spend of your substance, /Out of love for Him, /For your kin, /For orphans, /For the needy, /For the wayfarer, /For those who ask, /And for the ransom of slaves; /To be steadfast in prayer, /And practise regular charity; /To fulfil the contracts /Which ye have made; /And to be firm and patient, /In pain (or suffering) /And adversity, /And throughout /All periods of panic. /Such are the people /Of truth, the God-fearing (II. 177).

This verse has rightly been considered by most commentators to be the foundation text of the Qur'ānic notion of *birr*, which is a synthesis of Islamic faith, action and morality. This view is the basis of the opinion held by Sheikh Muḥammad 'Abduh and his pupil Rashīd Riḍā to the effect that *birr* is 'everything that is of a nature to bring man close to God, in other words belief, morality and good works'.[9] They go even further, considering that *birr is* no more and no less than 'faith, as it is revealed in human psychology and action'.[10]

This faith which governs the Muslim's thoughts, feelings and acts is first and foremost faith in a single God. It is the foundation stone of the unity of the Muslim community and of brotherhood between Muslims. In his preface to *Tafsīr al-Manār,* Sheikh Rashīd Riḍā recalls the militant action of the founders of the Muslim reformist movement, Jamāl al-Dīn al-Afghānī and Muḥammad 'Abduh, and their opinion, often reiterated in their journal *al-'Urwa al-wuthqā*,[11] that 'Muslims have no other identity than their religion. They are brothers and it is inconceivable that considerations of genealogy, language or government should separate them.'[12]

This faith in God also implies belief in the Last Day, in angels, in the Book and in the prophets. These are central tenets of the Muslim's beliefs and they guide his thoughts, attitudes and acts, in conformity with the teachings of Him who is both his origin and his ultimate end (*Allāh*), with his destiny (the Last Day) and with what guides his footsteps on the road to salvation in

9. R. Riḍā, 1948, II, p. 110.
10. *Ibid.*, p. 113.
11. Eighteen issues of the journal were published in Paris, the first in March 1884. The contents were republished in their entirety in one volume in Beirut, al-Maktaba al-Ahliyya, 3rd edn., 1933, 528 pp.
12. R. Riḍā, *op. cit,* I, p. 11. This viewpoint has been given extensive treatment in an article in the journal *al-'Urwa al-wuthqā* entitled 'al-Jinsiyya wa'l-diyāna al-islāmiyya' [Muslim Nationality and Religion], *op. cit.*, pp. 47–53.

this world and in the next (the angels and especially Gabriel, who transmitted the Revelation to Muḥammad, the Book[13] and the prophets).' These are the spiritual aspects of *birr*. But this spirituality is only highly thought of in Islam if it is expressed in acts, which 'constitute, according to *al-Manār*, the fruits of faith'.[14] This is why God heads the list of these actions by that which most clearly indicates the degree of *birr* achieved by the individual, namely the giving of money, 'whatever the love he has for it'.[15].

This expenditure which the Qur'ān enjoins the believer to make in the name of *birr* is destined for those of his kin who are in need, for orphans, for the destitute, for travellers who lack the resources to continue their journey, for beggars,[16] and to free slaves or to ransom prisoners. It should be distinguished from *zakāt*, or purificatory tax. Although not codified like *zakāt*, it is nevertheless compulsory because the needs of the various categories of deprived persons who are to benefit from it may become urgent at times which do not coincide with the payment of *zakāt*. Not being a tax, it is not quantified. It is freely assessed by the believer who, according to his piety (*taqwā*) and his degree of *birr*, can make a donation of everything he considers superfluous to his own needs and those of his dependants.

This form of voluntary and undefined expenditure on behalf of the needy and deprived members of the community is perhaps the best test of piety both for the individual and for the community as a whole. For the individual it is also the most embarrassing aspect of the duties of piety. The question was put to the Prophet at the time of the Revelation, and the Qur'ān recorded it as follows: 'They ask thee how much /They are to spend; /Say: "What is beyond /Your needs" '[17] (II. 219). It is clear that the ambiguity of the reply is intentional, since this is a duty prompted by conscience and one that each believer must perform spontaneously, motivated by his relationship with God and his brothers in God. It would therefore be no exaggeration to see this expenditure as the highest form of social solidarity in Islam.[18]

13. A generic term designating all the revealed Scriptures. According to M. 'Abduh and R. Riḍā, true belief in the Book implies the application of its precepts (see R. Riḍā, *op. cit.*, II, p. 114).
14. *Ibid.*, II, p. 115.
15. The Qur'ānic expression '*alā ḥubbihi* has been understood by commentators in two ways. The first is that used here; the second attributes the possessive pronoun *hi* in *ḥubbihi* to God. In this case, the expression '*alā ḥubbihi would mean 'for the love of God'*.
16. According to Riḍā, *op. cit.*, II, p. 116, a beggar is someone who begs because of extreme need and should cease to do so as soon as he can, since begging is forbidden in Islam.
17. *Al-'afw* is translated here as 'what is beyond your needs'.
18. This is emphasized by Riḍā, *op. cit.*, II, p. 117, when he points out that this kind of sharing of goods is a form of 'moderate and noble socialism'.

Finally, the Qur'ān (II. 177) says that prayer and *zakāt*[19] are among the actions arising from *birr*.

Although prayer and *zakāt* constitute the second and third pillars of Islam after the profession of faith, they are categorized as actions by the commentators. The five daily prayers mark the passage of time for the Muslim; they are moments of withdrawal that bring the believer face to face with his God and encourage him to appraise his past acts and strive to do better in the future.

Zakāt falls into the same category. An act of devotion in the fullest sense – since he who refuses to pay it is considered to be an apostate – it is nevertheless the most fully developed legal form of social solidarity.

Birr, according to the same verse, is the set of moral qualities that a person acquires in and by the aforementioned acts, which can only be performed by people who respect their commitments and show patience[20] and endurance in misfortune and adversity. Such individuals are, according to the Qur'ān, pious men (*muttaqūn*).

It can also be seen how the Qur'ān connects *birr* to *taqwā* by a kind of logical and psychological progression which bases action on faith and derives therefrom a morality, even an asceticism, and in this way justifies the order given to believers (V. 3) to help each other to do good and to be pious.

If *birr* is at once belief, action and morality, it is easy to understand how Islam cannot dissociate the temporal from the spiritual in this overall vision of man. Social solidarity, which in secular societies seems to be the most visible form of temporal action, in Islam seems to well up from the depths of spirituality. Faith in God – and even the creed as a whole – is only esteemed in Islam if it leads to effective action in terms of *birr* and *taqwā*. There is no distinction between the profane and the sacred for:

> in the Islamic approach everything profane suddenly becomes sacred by virtue of the illumination brought about by faith; and the relationship of the temporal to the spiritual is continually kept alive in the conscience of man who must struggle against distraction (*sahw*). What is Caesar's cannot be distinct from what is God's without descending into the 'impious city' held up to the obloquy of both worlds.[21]

But action remains paramount in this dialectical relationship between faith and action because it helps not only to maintain and consolidate faith but also

19. Mazigh translates *zakāt* as 'alms'. We prefer to translate it as 'purificatory tax', a term which seems more faithful to the Qur'ānic text both linguistically and from the standpoint of *fiqh*.
20. The word *ṣabr* in Arabic is often rendered by 'patience' or even 'resignation', which is very far from the Qur'ānic notion which signifies endurance and self-control far more than patient acceptance. This is why the Prophet often spoke of *al-ṣabr al-jamīl* or 'beautiful endurance'.
21. C. Fitouri, 1983, pp. 93–4.

constantly to perfect it. The quest for salvation is a perpetual quest and can only succeed through action: 'And say: Work (righteousness)! Soon will God observe your work, /And His Apostle, and the Believers' (IX. 105).

Acts of solidarity are subject to the fluctuations of fervour and piety[22] and are liable to vary according to circumstances, periods and contexts. This is why Islam has specified three forms of them: *takāful*, or diffuse solidarity, *zakāt*, or institutionalized solidarity, and *waqf*, *or* subsidiary solidarity.

THE THREE FORMS OF SOLIDARITY IN ISLAM

Takāful, or *diffuse solidarity*

Diffuse though it is, this form of solidarity is the weft of social cohesion in Islam, with *zakāt* as the warp. It is based on the individual and collective responsibility that Islam lays down as the prime condition of all life on earth. Since man owns nothing – all property belongs to God – he must be responsible for his person, for his dependants and even for all the creatures which constitute his human and physical environment. Any attack on any aspect of divine creation is severely criticized. As the vicar of God on earth and the temporary depositary of the blessings of the Creator – including his own physical and psychological potentialities – man must respect the Creator in each of the aspects of His creation[23] and pay tribute to Him for each blessing with which the Creator has endowed him. This is why 'those who foment disorder on earth' (*al-mufsidūn fi'l-ard*) are destined for exemplary punishment in this world and the next.

'The punishment of those /Who wage war against God /And His apostle, and strive /With might and main /For mischief[24] through the land /Is: execution, or crucifixion, /Or the cutting off of hands /And feet from opposite sides, /Or exile from the land: /That is their disgrace /In this world, and /A heavy punishment is theirs /In the Hereafter' (V. 33).

A Muslim must accept this responsibility first and foremost towards his neighbour, particularly when the latter is in need. This obligation arises from a typically Islamic conception of man and the wealth he may acquire. According to Ibn Taymiyya: 'God, may He be glorified, created riches only to help

22. Muslim theologians agree that 'faith diminishes and increases'.
23. This essential aspect of *taqwā* is often rendered by the imperative '*Ittaqū Allāh fi'l-bayawān* (Respect God [or consider God] in your way of treating animals).
24. The concept of *fasād* englobes corruption, depravity, vice, disorder, tyranny, discord, ravages, pollution: all kinds of things that are contrary to the order and harmony of creation. Man, as God's vicar on earth, must superintend this harmony by his actions and by an overall attitude consisting of doing and of 'ordering good and forbidding evil'.

in His adoration and created humans only so that they can adore Him.[25] So the purpose of gain – as has already been seen in connection with the ideal known as the *futuwwa*[26] – is for expenditure in the way of God (*fī sabīl Allāh*). This is why *takāful*, or social solidarity, implies, according to M. C. al-Fanjarī, 'mutual and effective commitment by individuals'.[27] From the Islamic point of view this solidarity is not confined to brotherly feelings, one's sense of *birr* or even a determination to 'order good and forbid evil'; it also entails a practical commitment on the part of every individual with sufficient resources towards his needy brother. This commitment, according to Muslim jurists, arises from four kinds of rights: kinship right, the right to utensils,[28] the right to hospitality and the right to alms.

Family solidarity or kinship right

According to the Qur'ān, this solidarity primarily concerns one's parents since God sets the affection and respect that are due to them on the same plane as adoration of Himself.

> Thy Lord hath decreed /That ye worship none but Him, /And that ye be kind[29] /To parents. Whether one /Or both of them attain /Old age in thy life, /Say not to them a word /Of contempt, nor repel them, /But address them /In terms of honour. /And, out of kindness, /Lower to them the wing /Of humility, and say: /'My Lord! bestow on them /Thy Mercy even as they /Cherished me in childhood' (XVII. 23–24).

Sura XXXI says: 'And We have enjoined on man /(To be good) to his parents: /In travail upon travail /Did his mother bear him, /And in years twain /Was his weaning: (hear /The command), "Show gratitude /To Me and to thy parents: /To Me is (thy final) Goal" ' (XXXI. 14).

Several *hadīths* insist on the preservation of kinship bonds (*ṣilat al-raḥim*). These bonds are sacred and breaking them (*qaṭ'*) leads to descent into hell[30] since the family is regarded not only as the first stone in the social edifice but as the only means of carrying out God's will on earth, namely the perpetua-

25. Ibn Taymiyya, 1969, p. 53.
26. See Chapter 8 above.
27. M. S. al-Fanjarī, 1980, pp. 24–5.
28. This involves the loan of utensils and commonly used tools between neighbours. This right is enshrined by the Qur'ān in a *sura* entitled 'Neighbourly Needs'.
29. The translator uses the word 'kind' to render the Qur'ānic *iḥsān*, whose root (*ḥ.s.n.*) conveys, in addition to kindness or goodwill, the notion of beauty and elegance, thus clearly indicating the importance of *how* an action is carried out. For example, the way in which alms are given is more important than the value of what is given.
30. 'He who breaks with his kin will not enter paradise': a *hadīth* transmitted by Muslim and al-Bukhārī and reproduced in M. F. 'Abd al-Bāqī, n.d., p. 188.

tion of the species with a view to the perpetuation of His adoration. All legal stipulations concerning the preservation of family bonds and the exercise of the rights of each member of the family (marriage, filiation, maintenance allowances, divorce, legacies, etc.) come under the heading of *taqwā*. The exercise of these rights imposes duties on each member of the community. And these duties are not only discharged by way of noble sentiments and courteous behaviour. They imply a practical commitment towards all close relatives in need. 'Hence expenditure on the maintenance of one's children, one's grandchildren, one's parents and one's brothers and sisters in need is not in any way a dispensation from paying *zakāt*.'[31]

The mother holds a privileged position within the context of family solidarity. A famous *ḥadīth* says that 'paradise is found beneath the feet of mothers'; and it is recorded that one day a man came before the Prophet and said to him: 'O Messenger of God, who [according to you] is most worthy of my company?' And the Prophet replied: 'Thy mother'. 'And then who else?' asked the visitor. And the Prophet replied: 'Thy mother'. 'And then?' the visitor insisted. And the Prophet replied: 'Thy mother'. 'And then?' the visitor retorted. 'And then thy father', replied the Prophet.[32] This clearly demonstrates the importance Islam attaches to women in general and to mothers in particular.[33]

Solidarity between neighbours and the right to utensils

This solidarity is sanctioned by the following verses of the Qur'ān: 'Serve God and join not /Any partners with Him; /And do good – /To parents, kinsfolk, /Orphans, those in need, /Neighbours who are near,[34] /Neighbours who are strangers, /The companion by your side, /The wayfarer (ye meet), /And what your right hands possess: /For God loveth not /The arrogant, the vainglorious' (IV. 36); 'So woe to the worshippers /Who are neglectful /Of their Prayers, /Those who (want but) /To be seen (of men), /But refuse (to supply) /(Even) neighbourly needs' (CVII. 4–7).

In the first of these verses (IV. 36), God recommends two sorts of neighbours: the neighbour who is also a close relative – and who is already the beneficiary of family solidarity – and the near neighbour, regular contact with whom encourages the development of neighbourly relations. The par-

31. M. S. al-Fanjarī, *op. cit.*, p. 24.
32. M. F. 'Abd al-Bāqī, *op. cit.*, III, p. 185.
33. It would take too long to develop this theme. Let us simply note that two *sūras* of the Qur'ān ('Women' and 'Light') are concerned with women and that the Prophet devoted most of his farewell sermon to them.
34. We feel that 'Neighbours who are near' and 'Neighbours who are strangers' are imperfect renderings. What is involved here is a neighbour who is also a relative and a close neighbour who is not a relative.

ticular importance attached to neighbours results from good Arab traditions dating back to pre-Islamic times. The Qur'ān and the *sunna* simply strengthened and extended solidarity between neighbours. *Tafsīr al-Manār* goes so far as to say that the association of the two parents, the close relative, orphans, the poor and neighbours in the same verse suggests that 'neighbourhood is a form of affinity'.[35] Kinship is a blood affinity whereas neighbourhood is an affinity by virtue of place and residence; there are circumstances in which a person may be closer to a nearby neighbour than to a relative who lives far away. Hence there is a need for continuing mutual help and solidarity between neighbours which may perhaps not be necessary in the case of relatives living far away.[36]

Al-Manār also quotes a *ḥadīth* which says: 'There are three kinds of neighbour. A neighbour who enjoys three rights: neighbourhood right, kinship right and the right of Islam [or that conferred by being a Muslim]; a neighbour who enjoys two rights: neighbourhood right and the right of Islam; and a neighbour who only enjoys neighbourhood right.'[37] In this and other *ḥadīths*, the Prophet stressed the obligation to treat one's neighbour kindly, even if he is not a Muslim. The *ḥadīth* collections mention the visit he himself made to the son of his Jewish neighbour who was sick.[38] In order to emphasize that solidarity between neighbours takes no account of religious frontiers, *al-Manār* cites what al-Bukhārī records about the caliph 'Umar's son, who constantly showered his Jewish neighbour with largesse, on the basis of a *ḥadīth* which he transmitted and which says: 'The angel Gabriel kept recommending my neighbour to me to the point that I asked myself if he did not want to make him my heir.'[39] Also according to *al-Manār*,[40] al-Bukhārī and Muslim recorded the following *ḥadīth*: 'He who believes in God and the Last Day must treat his neighbour with extreme kindness.'

The Qur'ān (CVII. 7) reaffirms the right conferred by neighbourhood, stressing this elementary, everyday form of solidarity which consists of never refusing to lend neighbours utensils or tools which they do not possess and which they need temporarily. The Qur'ānic term *mā'ūn* means utensils, instruments, tools and all the things that can help to perform everyday tasks and that neighbours generally lend each other, e.g. mattocks, cooking pots, firelighters, etc. This is what al-Nasafī reports, on the authority of Ibn Mas'ūd. For 'Ā'isha, the wife of the Prophet, the term designated everyday necessities

35. We use this term to translate *qarāba* since *affinitas* means both neighbourhood and kinship in Latin.
36. R. Riḍā, *op. cit.*, V, p. 91.
37. *Ibid.*, p. 92.
38. *Ibid.*
39. *Ibid.*
40. *Ibid.*

such as water, fire and salt.[41] Those who refuse their neighbours these basic things are condemned by God to everlasting unhappiness, like those who forget their prayers or who are inclined to ostentation.

Convivial solidarity or the right to hospitality

The right to hospitality is considered by some *faqths* as a religious obligation, although the majority regard it as a tradition based on a well-known *ḥadīth* which says: 'He who believes in God and the Last Day must treat his guest with deference. He must honour him for a day and a night. Hospitality lasts for three days and everything subsequent will be considered as alms; a guest must not impose himself on his host to an importunate extent.'[42]

The celebrated Ibn Ḥazm is reported as saying: 'Hospitality is an obligation for the countryman just as it is for the city-dweller. It is accorded for a day and a night as an act of kindness and for three days as hospitality.'[43]

Here Islam has simply codified and consolidated an Arab tradition firmly anchored in a society in which mutual help and hospitality are dictated both by a social life based on nomadism and by a hostile physical environment. In addition, Islam, which has always exhorted men to spread over the earth – whether in search of knowledge or of gain through trade – was bound to maintain and develop this tradition of hospitality until it was replaced by other institutionalized arrangements for receiving travellers, such as the *madrasas* (religious study centres), inns or *zāwiyas* organized throughout the Muslim world by religious foundations.

Solidarity with the humble or the right to alms

The Qur'ān lays more emphasis on this form of solidarity than on any other. Alms given in this way are considered as expenditure 'in the way of God' (*fī sabīl Allāh*).

'Those who spend /Their substance in the cause /Of God, and follow not up /Their gifts with reminders /Of their generosity /Or with injury, – for them /Their reward is with their Lord: /On them shall be no fear, /Nor shall they grieve' (II. 262).

The social duty of a man who gives alms is above all a duty towards God. Thus the relationship between giver and receiver is a relationship involving God. For this reason the manner of giving is more highly esteemed than the value of the gift; a man can always give alms, whatever his means. Alms-giving is a form of protection against hell-fire since it will be taken into

41. Al-Nasafī, n.d., IV, p. 379.
42. According to al-Bukhārī and Muslim.
43. Ibn Ḥazm, 1927–1932, p. 174. Cited by M. al-Sibā'ī, 1960, p. 120.

Scene in a bedouin camp.
Probably an illustration to the story of Majnūn Laylā,
from the *Khamsa* of Nizami. Ottoman Turkish
© Sipa Press, Paris

account on the Last Day. The Prophet repeatedly reminds believers of this, saying: 'Protect yourselves from the fires of hell, if only by sharing a date; and if you cannot do this, [be content with] a good word.'[44]

These limitless alms are, according to Sayyid Quṭb, a matter of individual judgement:

> They emerge from each person's feelings and conscience and are the fruit of the mercy and brotherhood that Islam has always preached in order to create cohesion between men and to establish social solidarity on the basis of the awareness each Muslim should have of his duty and of his compassionate feelings; this has a dual purpose: the extreme elevation of human feelings and the establishment of indissociable human solidarity. In calling for this compassion, Islam regards it as a pure feeling which goes further than religious brotherhood. In this context the Qur'ān says: 'God forbids you not, /With regard to those who /Fight you not for (your) Faith /Nor drive you out /Of your homes, /From dealing kindly and justly /With them: For God loveth /Those who are just' (LX. 8). And the Prophet says: 'Be merciful to those on earth and He who is in heaven will be merciful to you.'[45]

By exhorting people to spend on behalf of the humble and the needy, Islam has endeavoured to establish a caring community in which real feelings of brotherhood and affection, underpinned by each person's religious conscience, have gone far over the centuries to eradicate the spectre of poverty and to prevent the contrast between arrogant wealth and extreme poverty from triggering social explosions. The Last Judgement should not be forgotten, either, as the Qur'ān explicitly points out on many occasions: 'And spend of your substance /In the cause of God, /And make not your own hands /Contribute to (your) destruction; /But do good; /For God loveth those /Who do good' (II. 195).

The destruction referred to in this verse is, according to Sayyid Quṭb, both 'individual destruction through exposure to the torments which God keeps in the next world and the hatred of others in this world; and collective destruction because of the disparities, injustice, sedition, hatred, weakness and dissolution which lack of alms may cause'.[46]

An attempt to review all aspects of this solidarity with the humble in Islam would exceed the necessarily limited scope of this chapter. Let us simply recall that it is perhaps the most profound and effective form of social solidarity.

Takāful, which is neither codified nor institutionalized and is a matter of individual judgement, has made Islamic society truly convivial over the centuries. Expressed through acts and attitudes that are virtually automatic, *takāful* has perpetuated in the minds of members of the community, from the humblest to the noblest, their identity, their brotherhood in God and their

44. M. F. 'Abd al-Bāqī, *op. cit.*, I, p. 210.
45. S. Quṭb, 1974, p. 82.
46. *Ibid.*, pp. 85–6.

solidarity. It would be equally vain to expatiate upon the theological, ideological, social, political, moral and economic value of *takāful*. The history of the Muslim community, at its apogee and even during its stagnation, is rich in thought-provoking examples.

Finally, it should be noted that some authors list other forms of *takāful*. M. al-Sibā'ī[47] talks of moral solidarity, scientific solidarity,[48] political solidarity, military solidarity, penal solidarity, economic solidarity, etc., i.e. all the different forms of activity on which social organization is based.

Zakāt, *or institutionalized solidarity*

The difference between *takāful* and *zakāt*[49] is that *takāful* is an expression of solidarity between individuals whilst *zakāt* is the institutional form of this solidarity as administered by the state. Furthermore, *takāful* is sporadic and is intended to provide temporary help for the needy members of an individual's immediate entourage. *Zakāt*, on the other hand, is intended to bring about a redistribution of wealth between the members of society, 'whatever their religion and nationality', so that the needy can reach a 'level of sufficiency' (*ḥadd al-kifāya*) and not simply subsistence level (*ḥadd al-kafāf*):[50] the aim is the eradication of poverty so that each person's dignity is upheld and social peace is maintained for all. This is why al-Fanjarī considers *zakāt* to be the quintessential institution of social security.[51]

Before examining the different aspects of *zakāt* as an institutional means of promoting social solidarity and as a factor of equilibrium in economic life, it should be pointed out that it is the third pillar of Islam, coming directly after prayer (*ṣalāt*), and that paying *zakāt* is not only a religious duty but also an obligation which the state must supervise. Caliph Abū Bakr waged what historians call 'the war of apostasy' against a group which refused to pay *zakāt* after the death of the Prophet. On that occasion he uttered his famous words: 'By God, if they were to refuse me only a camel shackle which they customarily gave to the Prophet, I should fight them for that.'

The word *zakāt* appears thirty-two times in the Qur'ān, usually preceded

47. M. al-Sibā'ī, *op. cit.*, pp. 115–18.
48. He bases this on a *ḥadīth* which says: 'He who dissimulates knowledge God will smite with a burning bit on the Last Day', *ibid.*, p. 115.
49. *Zakāt* is sometimes translated as 'legal alms', sometimes as 'purificatory tax'. Neither of these translations is satisfactory. The former risks creating a confusion between *ṣadaqa* (alms) and *zakāt*: *ṣadaqa* is a voluntary, non-quantified outlay whereas *zakāt* is a compulsory, defined payment destined for specific social categories. In this sense it has certain similarities with taxation but unlike the latter does not cover all the spheres of state expenditure.
50. M. S. al-Fanjarī, *op. cit.*, p. 26.
51. *Ibid.*

by the word *ṣalāt* to show the indissoluble link between the two acts of devotion, which supposedly caused Abū Bakr to say: 'By God, I would fight those who would like to make a distinction between prayer and *zakāt*.'[52]

Moreover, the terms *ṣadaqa* (alms) and *zakāt* are synonymous in their Qur'ānic usage.

> Alms-giving is a *zakāt* [purificatory act] and *zakāt* constitutes alms: the words are different but they mean the same thing [according to al-Māwardī]. The Muslim has to pay no other duty on his property than *zakāt*. The Prophet said: 'No tax on property apart from *zakāt*.' *Zakāt* is compulsory on goods destined to yield profit *per se* or as a result of work to fructify them. *Zakāt* is considered to be a purificatory act for the owners of these goods and an aid for the needy.[53]

The categories of the beneficiaries of *zakāt* are clearly defined in the following verse: 'Alms are for the poor /And the needy, and those /Employed to administer the (funds); /For those whose hearts /Have been (recently) reconciled /(To Truth); for those in bondage /And in debt; in the cause /Of God; and for the wayfarer; /(Thus is it) ordained by God, /And God is full of knowledge /And wisdom' (IX. 60).

The Qur'ān thus designates eight categories of persons who have a right to *zakāt*, the proceeds of which are exclusively set aside for them. It is clear that *zakāt* does not by any means cover all the spheres of social activity whose funding is covered by taxation in the modern sense. But looking carefully at the social categories designated by the Qur'ān, it is possible to see that Islam aims first and foremost to eradicate poverty and destitution by means of *zakāt* and to free man from the most terrible form of alienation, the search for his daily bread. This is why the verse begins by referring to the poor and needy, and the Prophet spoke only of these two categories when he appointed Ma'adh Ibn Jabal as governor of the Yemen and recommended him to: 'Inform them [the inhabitants of the Yemen] that they must give alms which will be levied on the goods of their rich in order to be distributed among their poor.'[54]

The third category concerned by *zakāt* consists of the tax officials responsible for collecting it. This is to show that *zakāt* is not voluntary alms but a tax levied by the state. This tax funds an autonomous budget whose revenue and expenditure are calculated on the basis of the community's needs and resources.[55] Furthermore, the administration of *zakāt* is decentralized: each region must meet the needs of its own poor.

52. *Ibid.*, p. 31.
53. Al-Māwardī, 1978, p. 113.
54. According to al-Bukhārī and Muslim.
55. The *bayt al-māl*, which is the equivalent of the central financial administrative body, receives, in addition to the *zakāt* collected in the region, the following resources: the spoils of war, booty obtained without combat (*fay'*), the land tax (*kharāj*) and the mineral resources or *rikāz*.

The fourth category consists of those whose community has acquired support (those who have been won over to the cause of Islam). Sheikh Ibn Taymiyya seems to imply that the Qur'ān allocated to these people a share of *fay'* (booty obtained without fighting) rather than *zakāt*.[56]

These four categories are the direct beneficiaries of *zakāt*. They receive amounts sufficient not simply to raise them out of poverty but also to provide them with a level of sufficiency (*ḥadd al-kifāya*) that will enable them to achieve economic autonomy. This level of sufficiency constitutes the wealth threshold (*ḥadd al-ghinā*) and determines the income level above which a Muslim becomes liable to pay *zakāt*; this is what the *faqīhs* call the *niṣāb* (taxable bracket). Caliph 'Umar clearly defined the rule for distribution of *zakāt* when he said: 'When you give, make rich!', meaning that the beneficiary of *zakāt* must receive enough to take him above *niṣāb*, the point at which he becomes taxable.

This is why *zakāt* allowances vary from country to country, depending on circumstances and on individual situations. A farmer, a craftsman and a tradesman need different amounts to enable them to pursue their activities and to achieve economic autonomy. Consequently the *bayt al-māl* (public treasury) has to tailor allowances to needs. *Zakāt* thus makes it possible to achieve two goals simultaneously: one material and immediate, i.e. the economic autonomy of the individual; and the other spiritual and long-term, i.e. enabling the Muslim who is a beneficiary of this autonomy to become – or to become again – a fully-fledged Muslim by paying *zakāt* in his turn, i.e. by performing the third religious obligation of Islam.

By redistributing wealth in this way, *zakāt* introduces a new form of solidarity which maintains social peace while upholding the dignity of man. Looked at from this point of view, *zakāt* is not endless alms-giving by the rich to the poor and needy. It is a right belonging to the needy which should enable them to emerge from poverty and help in their turn to improve the living conditions of other needy people by means of *zakāt*. It is only granted as a subsistence allowance to the sick, the crippled, the aged, orphans and to any others who are unable through force of circumstances to achieve economic autonomy through work. The story is told of a beggar who once applied to the Prophet, whereupon the latter gave him 1 dinar from *zakāt* funds, ordering him to buy a rope and go and earn his bread by collecting wood.[57]

The four other categories concerned by *zakāt* benefit from it, so to speak, indirectly. First, there are slaves and prisoners of war who can be ransomed and freed. *Zakāt* thus has a humanitarian and moral function, safe-

56. Ibn Taymiyya, *op. cit.*, pp. 51–2.
57. According to S. Qutb, *op. cit.*, p. 151.

guarding man's freedom and restoring him to his full dignity.[58] Next come people burdened by debt, volunteers for the holy war and travellers who do not have enough money to continue their journey. These are three categories of people for whom the community takes responsibility, either because they contribute to its defence (volunteers covered by the Qur'ānic expression *fī sabīl Allāh*) or because they risk becoming social parasites. While the needy traveller does not pose a serious problem, various questions are raised by the case of the man burdened by debt. Most schools of law consider that the purpose of this aspect of *zakāt* is to create social peace and cohesion (by reimbursing creditors) and to safeguard the dignity of the debtor. However, all jurists agree that no responsibility should be accepted for debts contracted for unlawful or sinful purposes. This aspect of *zakāt* is, perhaps, that which provides most food for thought about the profound aims of Islam for, as al-Fanjarī says:

> So far in the history of humanity there has been no legislation, apart from Islamic legislation, whose foundation texts sanction the assumption of responsibility for debts contracted for lawful ends and regard this assumption of responsibility as an obligation and a way of coming closer to God. Islamic legislation goes even further by giving each debtor the sums necessary to avoid discord and to establish peace and friendship among humankind, even if the creditor and the debtor are *dhimmīs*.[59]

Al-Fanjarī[60] recalls that *zakāt*, as a social security system which seeks to eradicate poverty, is beneficial to all the needy, even if they are *dhimmīs*, i.e. Jews or Christians. This measure should be brought to the attention of Islam's detractors, who have always presented the *dhimmīs* as second-class citizens obliged to pay *jizya*, which some have likened to the poll tax of the *ancien régime* in France. They forget, however, that *jizya* is a tax which compensates for *zakāt*, while lacking its religious character. As a social security system, its function is the same as that of *zakāt*; it is levied at a higher rate because it has to cover a certain amount of military expenditure in return for the exemption from military service enjoyed by *dhimmīs*. History tells us that when the Muslims entered Homs during the conquest of Syria, they imposed *jizya* on Jews and Christians who refused to convert to Islam. Later, when they realized that the Byzantines had assembled a considerable army to fight them and that they could not defend the city and its inhabitants, they decided to pay back the *jizya* to the people of Homs. However, because the latter thought well of the

58. Though Islam did not forbid slavery as such, it made arrangements which should have eradicated it in record time. *Zakāt* is one of these. Others include *kaffārāt* (propitiatory actions), *nudhūr* (expressed wishes) and the freeing of a female slave who gives birth to a boy.
59. M. S. al-Fanjarī, *op. cit.*, p. 65.
60. *Ibid.*, p. 72.

order and justice established by the Muslims, they mobilized to fight the Byzantines at their side, and were consequently exempted from *jizya*.[61]

This, broadly speaking, is what *zakāt* consists of. Without going into details about the ways in which it is collected and distributed, how its rates vary and how the real needs of those entitled to it are assessed, we shall simply say that Islam, because of its highly specific way of considering man's place on earth (as the vicar of God), his relationship with God and with his neighbour and the relative value of wealth (*al-māl*), caused a real revolution in social structures and ways of thinking.[62] *Zakāt* is thus first and foremost a religious obligation which purifies the goods acquired by man and makes them lawful (*ḥalāl*). To refuse or simply to forget to pay *zakāt* makes everything a man has *ḥarām* or unlawful.[63] Bearing in mind how scrupulously good Muslims avoid what is unlawful and strive for lawful gain, it is not hard to imagine how keen believers were to pay *zakāt*. And if they were not fervent enough, the state was always there to do all it could to recover *zakāt*, if necessary by constraint and war;[64] for *zakāt* is also a right vested in the community over the goods of the rich so that wealth 'may not (Merely) make a circuit /Between the wealthy among you' (LIX. 7).[65]

Islam also set up *zakāt* because it detests the poverty and need that humiliate man and prevent him from achieving the full expression of his humanity, which consists in worshipping God and deserving the blessings He bestowed when He said: 'We have honoured[66] the sons /Of Adam; provided them /With transport on land and sea; /Given them for sustenance things /Good and pure; and conferred /On them special favours /Above a great part /Of Our Creation' (XVII. 70).

Islam's rejection of social disparities also led it to establish *zakāt* in order to even out the distribution of wealth on a continuing basis and thereby prevent the disintegration of society. In addition to the many verses of the Qur'ān which are quite unambiguous on this point, the Prophet continually reminded believers of this: 'Any group which contains a single hungry man places itself outside divine protection.'[67]

As God's vicar upon earth, man is thus invested with an enormous responsibility towards his Creator. From the viewpoint of society, his responsi-

61. According to al-Balādhurī in his *Futūḥ al-buldān*, p. 43; as cited by M. S. al-Fanjarī, *op. cit.*, p. 84.
62. These questions are still the subject of reflection by *faqīhs* (jurists) today.
63. See in this connection Chapter 8 above and more specifically the part dealing with the *futuwwa*.
64. S. Quṭb, *op. cit.*, p. 146.
65. *Ibid.*
66. The Qur'ānic term *karrama* means to honour but also to raise in dignity. The word for dignity in Arabic is *karāma*.
67. Cited by S. Quṭb, *op. cit.*, p. 148.

bility is that of an administrator who must ensure that the order established by His wisdom, of which *zakāt* is one of the mainsprings, prevails among humankind. The riches that God has put at man's disposal are incalculable (He has submitted to him the earth, the sun, the moon, the whole universe even), and so man must, with every step he takes, enjoy these blessings prudently and benevolently, looking for signs (*āyāt*) of the Creator in every aspect of creation and continually paying tribute to Him. Thus the community established by Islam is, at its best, not only a convivial and fraternal community, but also a happy, caring community.

Conviviality, brotherhood, solidarity: these are the values that made the *umma* great when they were put into action and when they stirred hearts and minds in unison. Their decline explains to a large extent the *umma*'s stagnation and even regression. And so the legislator in his wisdom devised a subsidiary form of solidarity known as *waqf*.

Waqf, *a subsidiary form of solidarity*

There are two kinds of *waqf* or goods held in mortmain: *waqf ahlī* (family *waqf*) and *waqf khayrī* (public *waqf*). They consist of property, the income from which is distributed among family members (*waqf ahlī*) or used to finance charitable works (*waqf khayrī*). *Waqf* property is constituted when its owner registers it as such on the property register. The duration of *waqf* can be limited to two generations or sixty years in the case of *waqf ahlī* and is indeterminate in the case of *waqf khayrī*. *Waqf ahlī* is attributed to a charitable institution when the line of beneficiaries dies out. In most Muslim countries, a ministry of *awqāf* (sometimes known as the Ministry of the *Habous* – from the Maghribī Arabic *ḥubūs*) is usually responsible for the administration of *waqf*.

Waqf is constituted as a result of a desire to preserve family interests (*waqf ahlī*) and as an act of piety dictated by the notion of *ṣilat al-raḥim*, mentioned above. *Waqf khayrī* is fully consistent with the Islamic conception of social solidarity, its purpose being to procure funds for religious or charitable foundations that help all kinds of needy people. Thus in most Muslim countries, even today, *waqf* endowments exist for the benefit of the Holy Places (Mecca, Medina and the al-Aqsā mosque in Jerusalem), various mosques, *madrasas*, public libraries, hospitals, charitable organizations (*takāyā*), irrigation works (wells and canals), *ribāṭs* (fortified monasteries), bridges and roads, cemeteries, abandoned children and orphans, the physically and mentally disabled, prisoners, etc.

Strikingly original kinds of *waqf* exist or have existed in some countries. One example is the *bidhār* (or seed) *waqf*, which helps needy peasant farmers by providing them with free seed and in some cases tools and beasts of burden. Other instances are *waqf* intended to encourage Qur'ānic learning and

to help students and even, in Egypt, a special *waqf* for the purchase and maintenance of the Sheikh of al-Azhar's steed.[68] At one time there were even *awqāf* to help needy young people who wanted to marry but could not afford to do so. Among other memorable *awqāf*, one known as the 'drop of milk' was set up by Ṣalāḥ al-Dīn al-Ayyūbī (Saladin) in the twelfth century in Damascus to provide for mothers breastfeeding their babies. The purpose of the 'green pasture' *waqf* (*al-marj al-akhḍar*) in Damascus was to take in and look after abandoned pets, showing that when the notions of *birr* and *taqwā* act on a Muslim's conscience they make him attentive to all creatures since through them infinite signs of the Creator are revealed.

The Muslim world which, since the *Reconquista*, the Crusades and the traumas of colonization, has always been the object of all kinds of power struggles and confrontations, has triumphed over the vicissitudes of history and its episodes of military, economic, cultural and political aggression by vigilantly preserving to the best of its ability the foundations of its identity and cohesion: *takāful* and solidarity. These foundations have stood the test of time and constitute the best guarantee of a better future in which the Muslim community will again become what it should never have ceased to be, 'a compact wall, all of whose stones are welded together'.

68. According to M. al-Sibā'ī, *op. cit.*, p. 211.

Chapter 10

ECONOMIC THOUGHT

Abdelwahab Bouhdiba

In the previous chapters of this work it has been amply stressed that Islam aims to regulate all individual and collective behaviour. The all-embracing vision of the world, existence and its history covers the realm of interpersonal relations and also that of man's relationship with his environment.

'Nothing have We omitted /From the Book . . .' (VI. 38) could not be understood otherwise. The Islamic plan aims from the outset to integrate everything into this all-embracing vision, which covers everything at once – subjecting it to the same basic principles and the same regulatory intuitions, the earthly and the heavenly, this world and the next, *dunyā* and *dīn*. Man here is an actual man, admittedly an adoring subject, but also in the here and now, operating in a material world, obeying his own ecological, geographic and demographic data and with his own resources, plentiful and varied or scarce and limited. He is also a collective subject, carrying on affectionate, intelligent and also reciprocal relationships with others. Trade (*tijāra*) must be understood in the widest sense as trade in things but also commerce of the mind. Faith is not merely a speech to God: it is also a vector carrying the community, giving it direction and inspiration but also organizing its everyday functioning. There is surely no need to repeat that in Islam faith and action go hand in hand, involved in and influencing each other.

The Prophet commanded people to act 'for the world as though they were to live in it for ever, and for the hereafter as though they were to die on the morrow' (al-Suyūṭī, *al-Jāmi' al-ṣaghīr*, I, 156).

Thus action takes its source from faith. But it is continued, diversified, in short carried out in varied and hence precarious circumstances and conjunctures. It must rest in its own foundation on the same eternal, inalienable, indefeasible ethical values. Every action is creation in time on the strength of a value that is in itself as it were an archetypal model to be brought into being in time. My just act must be both concrete (since conditioned by my existence) and just, i.e. in conformity with the standard I aim for and in which I

believe. Variety of levels, planes and circumstances must by no means justify anarchy or disorder. It is the unity of 'inspiration', thanks to the ethics breathed into the act, that gives a whole life or a whole civilization its unity.

Thus economics could not remain neglected by *fiqh* and *shari'a*, or economic values set themselves up in conflict with ethical values. Both react to the other. *Fiqh* is a deductive process from ontology to axiology[1] and the running of the affairs of the city. The compilation and whole history of Muslim law – never completed and always renewed – demonstrate a desire to fuse standards on to the concrete modes of socio-historical frameworks. In this chapter we shall try to see how the diversity of legal schools, trends and tendencies merely reflects the extraordinary fertility of Muslim lawyers' creative genius through the ages. Consideration of these various prescriptions illustrates the way the economic doctrine of Islam was drawn up and took over the whole field of economic activity by bringing it within the all-embracing founding ethical purpose of all Muslim behaviour.

In other words, on the basis of the Qur'ān Islam developed a specific doctrine, which functioned for many centuries and still functions, despite the challenges of modern times and the extraordinary mutations of Muslim societies, which are perpetually in search of themselves and for ever calling themselves into question.

We must stress this idea of the development of the doctrine, for it means questioning many received ideas, in particular the ossification school, which sees in Islam nothing but a closed vision, a halted process, an arrested development and an outdated or at any rate exhausted genius. The Revelation was admittedly concluded with Muḥammad, whose death sealed the closure of Prophecy. But the Holy Book still lives on. Down the ages it ceaselessly conveys the Word of God, which finds an echo in the conscience of men destined to act in accordance with it, i.e. to integrate it continually and ever renewed into the world. The unavoidable historicity of the process and the genuine development of the doctrine require us to take a living, dynamic view of the Islamic theory of economics. We shall set out the most salient and relevant aspects of this doctrine; next we shall analyse the spirit of it; and then we shall try to understand the problems posed by Islam's current encounter with the great economic problems of the day.

The limits of this chapter naturally prelude a historical approach, which in any case would be of very little interest to us. There can be no question of tracing the development of and changes in Muslim law step by step. More detailed information on that will be found in the volume dealing with the foundations of Islam. We shall content ourselves with painting a general picture. The point is that, beyond the differences between schools, the Qur'ān and the

1. According to A. Lalande, 1980, pp. 104–5, axiology is the 'critical theory of the notion of value'. Here, the term is used in the sense of value system.

sunna remain for all the reference, the source and the set of standards to which people must regularly return. These intangible founding texts themselves constitute the foundation shared by all who claim allegiance to Islam: they cannot be questioned in any way whatsoever. The revealed text of the Qur'ān and the authorized complement of the *sunna* are both a commandment, a creed and a referent. Some of these texts are explicitly devoted to economic questions. Injunctions, prohibitions and recommendations thus defined have constituted – and fourteen centuries later still constitute – the basis of a development that is continuously pursued.

The Qur'ān includes no fewer than 203 verses out of a total of 6,000 which in one way or another concern economics. While nearly 82 are devoted to alms and *zakāt*, 32 have to do with food and the various prohibitions surrounding it and 29 with wealth, its methods and possessions in general; others relate to ownership (7), trade (3), credit and debit (6), fraud (6) and association and contracts (6).

These concerns are no less important in the compilations of *ḥadīths*. They are recorded in books, as in al-Bukhārī's *Ṣaḥīḥ*. There are the book on *zakāt* (Vol. I, pp. 352–84), the book on sales, and books on transactions, usury, preemption, bills of exchange, the development of farm land, bonds, usurpation of rights, deposits, gifts (Vol. II, pp. 4–146), wills (Vol. II, pp. 184–7), food (Vol. III, pp. 491–512) and so on. In all, there are some 209 closely written pages, which have given rise to innumerable disquisitions, commentaries, glosses, exegeses and derivations running into hundreds of thousands of pages, sometimes, it is true, mere paraphrases or repetitions.[2]

Shari'a (the sacred law), as distinct from *siyāsa* (the administration of justice) and *fiqh* (the study of the sacred law), are explanations of the precepts of the Qur'ān. *Fiqh* is traditionally subdivided into two main sections, *'ibādāt* (worship) and *mu'āmalāt*, or civil legislation governing relations between people within the Muslim community and between the community and others.

These texts mainly comprise a theory of sales and transactions, define the laws of property and farming, lay down fiscal obligations and the rules of taxation, and set out a theory of interpersonal economic relations. Nor should we overlook the extensive field of *ḥisba*, involving everyday auditing, the policing of markets and the government of big towns.

This traditional corpus contains a set of ethical considerations about justice as applied to economic relationships. Justice is not a disembodied value suspended in mid-air: it is a practice whose scope covers the whole of everyday life. It takes concrete form in fair or unfair economic activities which a Muslim must carry out or avoid. Thus the Qur'ān urges fair trading and outlaws every form of fraud, false measures, lying and cheating. It likewise urges

2. See al-Bukhārī, 1977, 1981.

people to work and save prudently. It delimits an art of living without excess in either direction, without either avarice or prodigality. It defines a market as a place where God's beneficent grace is deployed and displayed. It lays down that wealth is neither good nor bad in itself, and that poverty is no more than a transient painful state that people must be able to rise above. The books of *ḥadīths* have collected and classified hundreds of the Prophet's aphorisms to the same effect. The many treatises, compendia and manuals have assembled and classified by main subjects other references, which are no less famous for not being sacred: aphorisms, verses, proverbs and anecdotes illustrate and expand the revealed writings. Thus we have a substantial set of standards, whose content it would be highly instructive to analyse. This is a task still to be undertaken.

Muslim law too concerned itself, as it must, with economic life. It regulated it. *Fiqh* is a system of standards that defines the nature of lawful actions and extracts from the requirements of the Qur'ān all their ultimate implications. It developed in two main directions. It defined the validity of human actions on the strength of the theological definition of the action beloved of God. It also brought out the injunctions of the Qur'ān, analysed and classified them, and arranged them in the light of the 'historic' origins and their 'roots', meaning the actual circumstances that gave rise to this or that revelation. The twofold effect of passing the theological and spiritual apparatus into legislation and universalizing it widened to the maximum the range and scope of the rules of the Qur'ān. Of course – and this was to cause problems – universalization itself was a historic step; and differences between schools and between their leaders were to foster lengthy arguments and arouse many polemics, and so keep *fiqh* in permanent touch with the real world. Hence the fundamental distinction between the foundations or roots of *fiqh* (the *uṣūl*) and the extensions or branches (the *furū'*).

Muslim law, like any law, was a masterly theoretical compilation that produced internal regulatory mechanisms of various kinds, some elementary and some disconcertingly complex. The rules of economic procedure are reduced to a minimum and left to the discretion of the judge. In any case they are secondary in relation to the internal arrangement of the rules, which make it possible to arrive at a firm opinion every time.

Thus the prescriptions of *fiqh* are indicators both of justice and of utility. As indicators of justice they designate the values to be protected, viz. the Qur'ānic values themselves or derived values. Protection must clearly designate the offences, assess the damages and limit the risks. But as an indicator of utility, *fiqh* becomes a valuable instrument. By making a point of the practical applicability of the law, seeking to analyse the conditions that govern its feasibility, and preparing to examine all cases liable to arise in the Islamic city, law at the same time serves to portray the actual economy. The history of law is also a history of the city. This characteristic of *fiqh*, which we find very

hard to understand today and which is so often seen as an incomprehensible and meaningless whimsicality, was actually an art of training future judges for all the eventualities of life. *Fiqh* is also an economic teaching in action. It is a real social symbolism, which amply ensured the coherence of the overall social system itself. Consensus around *fiqh* was thus vital. So all the forms of deviation and marginality were not mechanically reduced but were integrated in the form of casuistries, rare opinions and extreme cases; so that illegal forms should be reduced to the essential and that intermediate forms of actions should be finely appraised; and also so that social dissent should be reduced to the minimum. It was also this that (having made it possible to 'cover' the maximum of situations) gave the universality of *fiqh* a precise meaning and real scope. The complication of 'splitting hairs' is only that which appears superficially from the outside. But the Muslim doctors already knew that the simple is only something simplified, and that real life, made up of complexity, must be taken on as such.

This extraordinary richness aimed to make Muslim law capable of governing situations as varied as can be imagined for a civilization that spread over such varied countries and over such long periods. This proliferation offers a chance today to understand whole areas of Muslim economics. The accessibility of economic law has, through the medium of very thorough and widespread education, made the study of *fiqh* a real apprenticeship for responsible life in society. With the passage of time the whole continuing establishment of the system of production, distribution and exchange is now affected.

So *fiqh*, by way of clarification of the precepts of the Qur'ān, set about rationalizing the sphere of property and regulating the interpersonal economic relations that unite the agents of production, consumption and exchange of goods available, who may be partners, but also adversaries sometimes in open conflict. From then on *fiqh* fans out into five branches: property is seen as a natural right based both on divine delegation and on work; sales and transactions are recognized as transfers of property by mutual consent; succession and wills allow the transfer of property from generation to generation; fiscal policy and taxation ensure the return of a portion of property to the community in which the owner lives; and lastly, penal rules curb violations of the law and provide a right of redress.

Alongside this ample codification of the law special mention must be made of *ḥisba*, a discipline peculiar to the Muslim city, whose public morality it organizes. The *muḥtasib*, whose function was derived from the *ṣāḥib al-sūq* (clerk of the market), saw to the everyday enforcement of the law. Manuals were written for him, and discreetly complement the law books for us. The market is the field with which they were specially concerned, which makes them socio-economic documents of the greatest importance. The policing of markets in its own way also provides a mass of data about the economic values prevailing in this or that period, in this or that country. A systematic

content analysis of certain books of *ḥisba* still remains to be undertaken; it would bring out the degree to which the economic morality of Islam was general or particular in the face of a specific situation.

Such, then, are our basic referents: they are plentiful, varied and reliable. From them it is possible to systematize the economic ethic of Islam.

At the centre we find a fundamental ethical concept based on *ḥalāl* and *ḥarām*. In the economic field, as indeed in all other sectors of human activity, everything turns on this basic pair. Creation was made for man to avail himself of it. God put it at his disposal (*sakharahā*).[3] It is lawful to enjoy nature, avail oneself of it, exploit it and develop its potential. The ideas of profit and earnings themselves are likewise lawful. But there are tainted sectors in the world, particularly unclean animals such as the rat and the pig, and unclean foods: corpses, wine, rottenness, etc. Their use and exploitation is removed from the field of *ḥalāl*. Anything not explicitly stated by tradition to be unclean can be the object of economic transactions. In addition, the way economic activity is conducted is conditioned by legal–theological prescriptions that limit and regulate its conduct. Though gain is lawful in itself, the way it is acquired can make it unlawful when accompanied by fraud, injustice or violence. Alongside *ribḥ ḥalāl* there is a *ribḥ ḥarām*. It can even be said that the whole task of *fiqh* had for centuries and still has to do with analysing the often thin and subtle line between these two areas. A set of precise prescriptions and meticulous attitudes were developed to give the trader an easy conscience – whence the close parallel between the economic order and the ontological order. The believer is not simply a man at prayer; he is active in the world as a producer, trader and consumer, and his activities as such form part of his faith. An unlawful economic action is a stain on the faith and deals it a mortal blow.

It is therefore important to stress the essential correlation between faith and lawfulness, and indeed the reciprocal link between the two ideas. In the beginning and before everything there is the will of God, who made us a present of the world on the express condition that we should introduce no disorder into it. 'Unbelievers' are 'wicked men' who disturb order (*ya'ithūn fīh fasādā*) (V. 33), and from ill intention or ignorance (*jahl*) do not put themselves in tune with the harmony of the world. Hence the fear of God (*khawf* or *wara'*) that surrounds the most harmless economic action. People say of a good workman, an honest trader or a meticulous stockbreeder who takes care of his animals that he is a believer (*mu'mim*): this is a play on the wealth of meaning of the root *a.m.n.*, which has given both 'belief' (*īmān*) and 'trust' (*amāna*). Believing and inspiring trust go together. A believing man is a trustworthy man, and vice versa. All general education, and techni-

3. At least twenty-one verses in the Qur'ān have this meaning. See in particular XVI. 14; XXII. 25; XXXI. 29; XLIII. 13; XLV. 13.

cal and vocational education as well, aims to develop reflexes and foster an attitude that is essential in Islam: the sense of *ḥalāl* and *ḥarām* as a real 'sixth sense'.

While this sense stems from the will of God, it also gives human activity its rationality and unity. Amid the variety of life and the multiplicity of possible choices open to every man at every moment the criterion remains that of *ḥalāl*, which purifies the act (*yuzakkih*) and sanctifies it, but also rationalizes it. The reason for our actions is our own *raison d'être*. It does not abandon us to our instincts, so that we go through our lives in animal fashion and leading a natural existence. On the contrary, it leads us to set ourselves goals, fix limits, make choices, map out our own paths, and all this on the basis not of our passions, fancies and illusions (*ahwa'*) but of the sense of *ḥalāl*. *Ḥalāl* is not merely the ontological sense of the divine will: it is also the sense that guides our actions and unifies the variety of our existence. Economic actions then take on a far more basic meaning than might appear at first sight: they become part of the universal harmony of the Qur'ānic vision of the world. Being *ḥalāl*, an economic action transcends itself and lifts itself up to the level of perfection that brings man close to God. A *ḥalāl* economic action is in its way a true act of worship. So blessings and prayers usually accompany every stage of an economic action, which is punctuated with sanctifying formulas such as the *basmala* to start the act, the *ḥamdala* to end it, the *baraka* invoked, and the *tawakkalt ālā Allāh*, which is the beginning of any undertaking, the way to put one's hopes and strength in God, who blesses human effort. Here we touch on one of the absolute foundations of the Islamic ethic – developed in detail elsewhere – which rejects any dichotomy between the world of prayer and the world of action.

Lucidity is not merely personal. It also aims to respect the next man's rights. An action that harms another is a *ḥarām* action. The nature of the interpersonal relationship thus comes into play. If Islam is so harsh towards theft, it is certainly not because of some sort of sacrosanct character of property: nothing of the kind, as we shall see later in this chapter. It is because any theft is a theft of freedom. Another man's possession is deemed, pending due proof to the contrary, to be a possession properly acquired. It is the result of a gift of providence or of work done. To steal, misappropriate, defraud or waste such a possession is to usurp another man's work: and there is no worse sin in Islam than to 'drink the sweat' of the next man. A lawful economic action must respect the rights of others. One must not improperly acquire other people's possessions cheaply by usurpation, swindling or disparagement; one must not cheat on production processes; give short change; mix good produce with bad; cheat on weights and measures; speculate; or exploit shortages. The rationality of economic actions is not merely internal and personal; it is also collective and communal. It is impossible within the small compass of this chapter to quote the hundreds of injunctions in the Qur'ān

and *Hadith*. The Qur'ān is clear: 'And weigh with scales /True and upright. /And withhold not things /Justly due to men, /Nor do evil in the land, /Working mischief' (XXVI. 182–183).

Hence freedom delimits the interests of the community that must be safeguarded. In Islam awareness of the community, or *umma*, is fundamental. Economic actions are by definition actions that affect the community. There is no conflict between the interests of the individual and those of the community, provided both are well understood, i.e. understood in the context of the ideas of *halāl* and *harām*. It is a duty for the community to safeguard the individuals that comprise it, just as it is a duty for them to be sure to respect the group of which they form part. Earnings and profit are not merely lawful: they may become imperative when the estate of the community requires it, if only to safeguard the tithe levied for the benefit of the poor on all income. A man who does nothing gainful harms not only himself, he harms his neighbours at the same time. Economic actions are more than lawful; they become an obligation. Seen thus, work is an absolute duty as it underpins an economy of plenty in which human effort and divine grace collaborate.

The survival of the community, the prosperity of all and relieving the poverty of ordinary people require this. It also follows from this principle of the need to safeguard the interests of the group that any activity contrary to the public good is forbidden. A product that is harmful to health must not be traded. Likewise anything that serves enemy interests (strategic products, we would say today, such as wood for ships, damascened steel for swords or compasses) must not be exported.

A few remarks should be made here about the period of economic expansion of Islam, with reference to the work of Maurice Lombard,[4] who maintains that the Muslim world developed as a unified cultural, social and economic entity in the seventh century. The Muslim empire united two previously distinct economic areas: the Sassanid and Asian East and the Mediterranean, Roman and Byzantine worlds. It thus achieved economic, monetary and demographic importance and, more generally, a level of civilization that brought in its wake the historical forces of the second/eighth and fifth/eleventh centuries. Lombard's insight turns around three considerations: currency, networks and space. One of the most important issues is indeed that of the interaction of monetary systems. However, a great deal of research still needs to be done in this field, as has been shown by Claude Cahen in his long article entitled 'Quelques problèmes concernant l'expansion économique musulmane au Moyen Age'.[5] The establishment of the Muslim empire resulted in

4. M. Lombard, 1947, 1971; H. Djaït, 1975, pp. 901–2, whom we mention separately here.
5. C. Cahen, in *Settimani di Spoleto*, 1964, published in 1965, reproduced in *idem*, 1977, pp. 323–57, in particular pp. 324–8, for the work of Maurice Lombard, Sture Bolin, Philip Grierson, Carlo Cipolla, etc.

a more or less homogeneous economic area; but these disparities themselves were reduced by religious, legal, political and hence practical unification, which gave a decisive boost to economic activity. Borders were not regarded in anything like the same way as in the previous empires, which meant that the simultaneous occurrence of economic interaction and the mingling of behaviour and ideas offered a useful basis for the economic doctrine of Islam. This economic doctrine in turn played no small part in the common development of the Muslim areas.

Thus it is an ethical–economic concept we are dealing with. Economic and ethical values are not divorced from each other. The prescriptions of Islam define a universal axiology.[6] What is *axios* in the realm of trade in material goods is *axios* also in the realm of virtues. Justice, solidarity, love and generosity are 'total' values, meaning that they are indefeasible, indivisible and of unlimited scope and extent. Again, good and the good use of possessions are of the same stuff and coextensive with one another.

Lastly, it follows from this that economic activity is a social activity; whether or not it is undertaken in a group, it constitutes a social function and defines collective attitudes. Economic operations refer to a next world that is the Next World itself. They are none the less features of life itself. The apprentice, the shepherd boy and the schoolboy learn very early on that their work determines not only their own well-being but that of society as a whole: family, tribe, group, *umma* and humanity. It is not enough to pray or fast; all our actions must also be carried out to perfection. A botched job and a botched prayer are rejected by God, who being perfect and infinite likes perfect, infinite things. 'God', said Muḥammad, 'loves the workman who fashions something and does it to perfection.'[7]

Economic production is a social function that defines attitudes. For the latter to be genuinely Islamic, the economic operations must be committed in advance and conducted so as to put the operator in tune with spirituality as previously defined. Personal and collective life is conducted in terms of a twofold economic imperative, both technical and practical and also ethical and religious. The correspondence (or indeed symbiosis) between the two imperatives defines the Islamic attitude. Economics thus implies a twofold process, intellectual and historical. At every step in human life the way to acquire virtue results from a number of choices, which must be made in the light of what Islam has defined as virtue.

This being so, is it economics that conditions ethics or ethics that organizes and structures economics? This is a good question. Let us say that Islam, practised and understood for centuries, has shown a keen concern to

6. See note 1 above.
7. Al-Suyūṭī, 1934, II, p. 250.

take over both the imperatives of everyday life (which in their extreme demands sometimes imply that the limits of the lawful have been moved back) and also those of ethics (which lead people to renounce economically beneficial actions that are contrary to Qur'ânic law). Throughout history Islamic practice has shown tolerance and rigour on this point; and nowadays we see both qualities alternately gaining ground and retreating.

Thus lending at interest becomes part of morality, and Islamic banks founded on the prohibition of lending at interest make a real breakthrough. A 'reading' of *Fatâwâ hindiya*, for example, especially the chapters on economic questions, will reveal the scope and limitation of this economic–ethical combination.

Four main trends can be discerned in the economic theory of Islam: the rejection of hazard, the integration of work, the freedom of economic actions and the fundamental value of the community.

The rejection of lending at interest is only the most popular and best-known part of a more radical rejection, that of hazard (*gharar*). The rationality of economic actions must leave no room for an opportunity of improper enrichment to the detriment of the next man. Hazard is a speculation, a computation, a throw of the dice, a wager about the future that makes big profits. Hence games of chance are just as unlawful as usury, and the same verses cover them both in the same radical disapproval. The Qur'ân is explicit on this point:

> Those who (in charity) /Spend of their goods /By night and by day, /In secret and in public, /Have their reward /With their Lord: /On them shall be no fear, /Nor shall they grieve. /Those who devour usury /Will not stand except /As stands one whom /The Evil One by his touch /Hath driven to madness. /That is because they say: /'Trade is like usury,' /But God hath permitted trade /And forbidden usury . . . God will deprive /Usury of all blessing /But will give increase /For deeds of charity: /For He loveth not /Creatures ungrateful /And wicked . . . O ye who believe, /Fear God, and give up /What remains of your demand /For usury, if ye are /Indeed believers. /If ye do it not, /Take notice of war /From God and His Apostle: /But if ye turn back /Ye shall have /Your capital sums: /Deal not unjustly; /And ye shall not /Be dealt with unjustly (II. 274–279).

Or again: 'O ye who believe! /Devour not Usury, /Doubled and multiplied . . .' (III. 130); 'O ye who believe! /Eat not up your property /Among yourselves in vanities: /But let there be amongst you /Traffic and trade /By mutual good-will . . .' (IV. 29).

These dishonest procedures have been subject to many analyses. *Fiqh* has developed a complete 'casuistry' directed essentially to the practical definition of unlawful acts. Lending at interest can be averted by expedients (*hiyal*): credit sale coupled with a cash advance, leonine partnership, purchase and sale at different dates, deposit in return for repayment, lease-back, etc. But

other practices are equally disapproved of, such as selling remnants in bulk (*muḥāṣala*); selling without weighing or measuring (*mujāzafa*); selling fruit *en bloc* on the tree (*muzābana*) or corn in the blade (*muḥāqala*); contracts one in another (*ṣafqa fī ṣafqa* or *bay'atān fa bay'a*); sales in which perishable produce is used as collateral; selling thirteen objects for the price of twelve, etc. *Fiqh* prohibits all these transactions as tainted with *gharar*.

A contract is only valid if both terms are duly known and determined by common agreement, and if it involves full awareness by both parties who act in true knowledge of the facts. Prices, quantities, qualities, time-limits and bonds must have been the subject of free, full, responsible agreement between the contracting parties. The object must also be examined before possession is taken of it, and measures and coins be checked, so that all uncertainty may be reduced to a minimum. All this profusion of effort is so as to eliminate all profit without counterpart (*ribḥ bilā'iwaḍ*).[8]

The rationality of the action is what in the last resort guarantees its lawfulness. Deceit (*ghish*) is baseness: it blurs the bounds set by God, *ḥudūd Allāh*. It confuses lawful and unlawful, good and evil, true and false, rational and irrational. To indulge in it deliberately is to cut oneself off from the Islamic community. 'He who deceives is not one of us,' the Prophet used to say: '*Man ghashsha, fa-laysa minnā*.'[9]

Note the truly universal character of this rule. Deceit in itself, whoever the perpetrator or victim and whatever the object or circumstances, is decidedly disapproved of. Indeed, it was condemnation of all forms of economic deceit that underlay the introduction of one of Islam's most typical institutions, viz. *ḥisba*, whose important role in the institutionalization of value we have already noted. The institution of *ḥisba* played an extraordinary part in popularizing the ethical values of Islam and injecting them into everyday economic life. From this point of view the *muḥtasib* was a real social marker. Thanks to him the market-place became a controlled area. He was an extension of *fiqh*, which, as mentioned above, was as much law as education and social work. The mediating function of *fiqh* and *ḥisba* is never sufficiently stressed.

The *muḥtasib*, whose job was to see that morality and a proper way of life were generally observed, more particularly exercised a right to look out for cheating in order to detect fraud. He had to see to it that a proper proportion was kept between meat and offal, and that oil was not adulterated or milk watered; he checked the genuineness of coins, the accuracy of weights and measures and proper methods of weighing; but also, in close collaboration with the *amīns*, or heads of the guilds of craftsmen and shopkeepers, he laid

8. A concise account of this question may be found in J. Schacht, 1983, pp. 123–7. See also C. Chehata, 1936; M. al-Mubārak, 1980, p. 99.
9. There are three *ḥadīths* to this effect: see al-Suyūṭī, *op. cit.*, II, p. 540. See also M. Shaltūt, 1977–1979, p. 268.

down criteria for 'good' babouches, for 'quality' fabrics, for the ingredients in bread, for hygiene in restaurants and for the quality of the food served in them. The impressive profusion of detail[10] shows the crucial importance of the idea of hazard in the ethical conception of Muslim economics.

The reason why *ghish* is so radically proscribed is because Islam, in rejecting all forms of speculation and usury, in no way recognizes unorthodox methods of enrichment. The supercilious mistrust of the irrationality of any acquisition of possessions not rationally justifiable shows unequivocally that the royal road to the accumulation of possessions lies only through work. It is its basis, its support and its unchallengeable justification.

Work sanctifies possessions, purifies them and justifies them (meaning that it makes them justifiable and in conformity with justice).

Property, which is recognized as a legitimate right in Islam, is a right acquired by *ḥalāl* means, these being either providential (a legacy or gift) or the fruit of personal toil.

Here we should point out that property in Islam corresponds only approximately to what the modern Christian West understands by the term. Even in its most individual aspect, property still remains at the service of the community. God created the world and put man into it to enjoy it: but the primacy is God's. He is the ultimate owner, from first to last, of all possessions. Man as His lieutenant on earth is only their manager, their administrator, their essentially precarious guardian. He must make use of them strictly in accordance with the law and the spirit of the world. He must certainly not squander these possessions.

'*Makkannāhu fi'l-arḍ*' (We have established him on earth) is the august gesture of God, who reserved a special place for man, and placed him in a situation of pre-eminence. Man's behaviour must be in keeping with this pre-eminence. To adulterate the world is *ipso facto* to make oneself unworthy of this pre-eminence.

Thus *mulk* (supreme absolute ownership) must be distinguished from *milk* (temporary, conjunctural, usufructuary appropriation of things). Al-Damaghānī's dictionary of Qur'ānic words[11] distinguishes no fewer than ten meanings for the root *m.l.k*: strength, wealth, power, prophecy, control, treasury, full knowledge, dispatch of angels, master–slave relationship, and lastly ontological pre-eminence.

Let us content ourselves here with what concerns us most directly: full ontological and metaphysical possession of things and beings, which is a divine attribute, and concrete use as a conjunctural part of a historical process, which alone is the business of man.

10. See C. Cahen and M. Talbi, *EI*[2] art. 'Ḥisba'; Ibn 'Abdūn, 1955; Y. Ibn 'Umar, 1975; al-'Uqbānī, 1965–1966.
11. Al-Damaghānī, 1970–1971.

Very closely linked to this duality of levels and planes is the concept of *kasb* in Islam. The possessions of this world stem from God's creative action. This grandiose and nonpareil action is the origin of life, existence and all human activity. To enjoy the possessions of this world, man must lift himself to the level of God's generous gift, which opened the paths of life to him. If man finds on earth that which allows him to continue in being and pursue his existence, it is because the act of creation inaugurated the fact of his own existence. In these circumstances man cannot content himself with taking the easy way and becoming a mere consumer of existence like an animal. Consumption is pure negativity. It is effort that gives man an opportunity to become a conscious and worthy being. Effort, strenuousness – in a word, attainments – remove man from the sphere of pure negativity and put him on a level compatible with his human dignity. Work is thus an obligation inherent in the essence of man. 'God creates and man acquires,' as the Mu'tazilites used to say. 'Then shall every soul /Be paid what it earned' (II. 281; see also XIV. 51; XL. 17; LXXIV. 38). This holds good in the next world as well as in this. Earning is not only legitimate but a duty, in the sense that it is the fruit of all activity. Through work man draws closer to God, takes his place in creation and fulfils himself as a unique being in creation. 'Two kinds of food taste best,' the Prophet used to say, 'those produced by your own hands and those carried on your own back.'[12]

Work is certainly the royal road to the acquisition of wealth. It opens the way to *kasb*, which is always *halal* and must be carefully distinguished from *mal* and *rizq*. *Mal* (to which the Qur'an devotes some eighty-six verses) means possessions in general, and the word is very ambivalent. It denotes all kinds of possessions, regardless of their legitimacy and of how they are transferred. The attraction and lure of possessions make men dash frantically after them. In general (especially if they surrender to their instincts alone) they are out to get them at any price. So the possessions can just as well be *halal* as *haram*. At this level they amount only to an illusion, *zinat al-hayat al-dunya*, a mere worldly adornment (XVIII. 46). *Mal* can even be a curse and a trial: 'Be sure we shall test you /With something of fear /And hunger, some loss /In goods or lives or the fruits /(Of your toil), but give /Glad tidings to those /Who patiently persevere. –' (II. 155). *Mal* is actually a *fitna*, a very attractive trial! *Rizq* is fully positive. It is abundance, for it is a gift from God. *Rizq* is not necessarily the fruit of human toil: it is essentially providential. It may be a gift, a legacy, a find, a treasure unearthed. It is even one of the mysteries of God that justify *tawakkul* (reliance upon God). It is pure grace. For this reason it is absolutely lawful, but no personal merit attaches to it.

Kasb is the sign of the humanization of wealth. The Qur'an uses a series of words: *kasb*, *sa'y*, *'amal* and *tahsil*. All imply effort and endeavour. Work

12. C. Cahen, *EI*[2] art. 'Kasb'.

and toil, the sweat of one's brow, strenuousness, initiative and enterprise are positive values. 'He who acquires his pittance and does not beg it, God will not make him suffer on the day of the Last Judgement . . .' 'Nothing is as pleasing to God as a man who feeds himself by the labour of his hands.' 'God hates the man who acts neither for this world nor for the next.' Or again: 'For a man to load faggots of wood on his back is much better for him than to beg from those who give or those who refuse.'[13]

Exegetists, *faqīhs* and philosophers have discoursed at length on the subject of the 'callings' of the prophets. For even prophecy does not exempt from work. Mary giving birth to Jesus, fruit of the immaculate conception, tested out the miracle *par excellence*. Yet in the middle of her labour she had to put forth another small effort . . . to feed herself. She had to shake the trunk of the date palm to harvest the dates (XIX. 24–25).[14]

Moreover the values of work are many. It legitimizes our appropriation of the world. It puts us in a reciprocal relationship with God. It humanizes nature. It fills man with satisfaction and joy. Ibn Khaldūn goes so far as to see in it the fundamental difference between the desert and the world: we would need to quote the whole of Chapter V of the *Muqaddima*, which is devoted to *ma'āsh*, or how to earn one's living. At the outset Ibn Khaldūn writes that profit is the value realized from human work: '*al-kasb huwa qīmat al-a'māl al-bashariyya*'.[15] It can be said that for Islam nature does not exist 'in itself'. It exists for man. Admittedly it was created by God, but its existence is the outcome of the fundamental relationship that man creates in it by his work. Work is a 'resurrection of the world' (*ba'th*), so it is proper that developing nature should give one the right to appropriate it.

This is not a fanciful idea but a legal injunction. '*Man ahyā arḍan mayyitatan, fahiya lahu*' (He who brings a dead land to life, it belongs to him), the Prophet used to say.[16] The point is that work is the intermediary that brings into the human *milk* what was originally part of the divine *mulk*. Also in Islam it is the absolute hub of the whole theory of economics.

From it flow consequences of the greatest importance. First, property is to be used, never misused. The *jus utendi et abutendi* is anti-Islamic. I must administer the possessions I own strictly according to religious law and ethics. I must not squander them or leave any possession unused. For beyond my own narrow interests lie the interests of the group. A man who does not sow a field deprives himself of a possible gain, but at the same time he deprives the whole community of a possible resource; he disrupts the markets; he obstructs the provisioning of them and contributes to scarcity; he makes himself

13. Al-'Aynī, 1890–1893, IV, p. 26.
14. Al-Rāzī, 1853, VI, p. 550.
15. Ibn Khaldūn, n.d., p. 380; tr. F. Rosenthal, 1986, II, p. 311.
16. Al-Suyūṭī, *op. cit.*, II, p. 482.

consciously or unconsciously the accomplice of hoarders and profiteers of every stripe; and lastly he deprives the poor of the share due to them in the form of *zakāt*.

Thus there is never independent wealth in Islam. Wealth is conditional. It is work that sustains the right to property and determines the value of produce. Hence, as the counterpart of this, the community of men is the real absorber of all wealth, the sacred being its ultimate goal. Work is a prayer just as much as asceticism is. There is not the world of wealth on one side and that of asceticism on the other. Asceticism and work go together. They spring from the same source. Religious and economic functions are not independent of one another. Faith and action are mutually interrelated. The world of prayer cannot exist apart from the world of work; work itself is a prayer, perhaps the greatest one.

The third category of Islam's economic ideas concerns notions of economic responsibility and freedom, which are interrelated. Existence is an integrated summation of interdependent actions, which all involve ethics. Economic activity, which is neither secondary nor otiose but fundamental, can only be undertaken by commitment. It must therefore be free and undertaken as such. Economic activity in its various phases of production, distribution and consumption is a state of grace, almost of happiness. It is a state of responsibility and full knowledge of the facts. So all economic activity not carried out in a state of capacity (*kifāya* and *jawāz*) is null and void. Institutions in the economic field, as we have already stressed, are so organized as to eliminate overt or covert, conscious or unconscious 'constraint' (*ikrāh*) that would make this freedom a dead letter. Unfair competition, the use of artificial prices, and trickery are forbidden. The idea that there is a natural price based on a balance in the terms of trade is essential here. It must be reinforced by freedom in work.

It would be interesting to set out in detail here the status of the menial work carried out by slaves.[17] The doctrine of course had to solve many problems faced by all the societies of the time, especially Christian. We must not lose sight of the fact that in Islam the status of free man is the basic status (*al-aṣl huwa al-ḥurriya*), as all the *faqihs* acknowledge. Slaves did not strictly speaking have possessions. Their masters had to maintain them or hand them over to someone else. For many schools, notably the Mālikī, slaves remained the owners of the savings representing the wages of their work, which could be accumulated against possible manumission.

People must first be encouraged to produce and take a lawful share of produce. But this freedom is seen and exercised in the framework of the community, which is of fundamental importance for the management of economic affairs. This importance, as we have shown, is seen in the organization of the

17. See R. Brunschvig, *EI*[2] art. ''Abd'.

economic sphere: market structures, regulations governing places of production and distribution, and relationships among producers, between them and distributors and lastly between them and consumers.

The role of the community is also seen again in *zakāt*, both as purification and as collective participation in the sharing out of produce. *Zakāt*, whether given directly to the poor or paid to the *bayt al-māl* (public treasury), unites all the members of the group, and brings about a genuine redistribution of possessions – especially since *zakāt* also bears on capital. It is not unearned income but wealth itself that thus comes under the jurisdiction of the community. The latter is also united through collective possessions, which played and still play a key role in Islamic civilization: viz. domanial possessions, treasury assets, *waqfs* and habous.

Waqfs (habous, from the Maghribī Arabic *ḥubūs*), mortmain institutions organized through bequests or legal gifts, are in general for pious purposes. The income from this estate supports action for the common weal: the maintenance of mosques; the running of hospitals and *madrasas*; the upkeep of students, teachers and readers of the Qur'ān; the circumcision of the poor; trousseaus for unprovided girls; pilgrimage to the Holy Places; regular meals for the needy and for ordinary prisoners; the ransom of Muslim prisoners in enemy hands; the building of forts; scientific research and so on. Down the ages the accumulation of habous property, as one generation follows another, has ended up as a whole section of the capital of the community. Admittedly, habous have often been used to circumvent the law of inheritance, but their gradual return to being semi-collective possessions of the lineage or collective possessions of the whole community has ended up by considerably enriching the community and enhancing the idea of collective ownership. Admittedly, the latter eventually raised serious problems of efficiency and management. Nevertheless the spirit of the habous was and still is to make collective interests take precedence over private ones, and their role in the protection of society was of the highest importance.

We must not underestimate the wide-ranging influence of the Islamic ethic in economic activity: it is complete and all-embracing. It tends to unify the diversity of existence and bring together the ontological and the historical, the personal and the collective, the communal and the individual. The most humble everyday act is thus revalued and takes on a meaning that transcends it. This view of economic matters performed a twofold function: it introduced ideas of justice, solidarity and responsibility at all levels of existence. The cardinal virtues it offers a person sustain and engage his active effort; they guide, sustain and improve his behaviour. The creativity of work, the abundance of effort and the assumption of our labours represent a source of *riḍā* (joy, serenity, contentment and complete happiness).

The psychological content of the doctrine is scarcely less important. Indeed, it is just as essential, for it defines the collective attitudes that have in

turn conditioned the behaviour and specific attitudes of Muslim man. Fear of being cheated, and the equally real fear of cheating or cheating oneself, even in good faith, bring out an attitude of rigour, vigilance, continual alertness (*taḥarrī*), which is true asceticism, to make man choose whatever is most appropriate and worthy. Images of scales (*mīzān* or *qisṭās*) put man into a state of attentive self-control in which he scrutinizes his own actions and their form, meaning and scope. Whether it is a matter of quantity, quality or value, the attitude is the same. The aim of the doctrine and of education for work is to combat all forms of frustration in advance by seeking to adjust and regulate economic activity.

It is as though economic activity were a balance between various terms, themselves shifting and difficult to assess. Consequently, a sale can very well be cancelled if one of the terms turns out in practice to be different from what was intended. Returning goods because of substantial hidden defects is a healthy practice of the Islamic market; and it is in this spirit that haggling must be understood: it is simply a form of human relationship around an object, whose qualities and origins are patiently and unhurriedly examined and on whose price agreement is reached in a real social ceremony. Whether or not this is a matter of 'public relations', the tendency is towards a price defined by common agreement (but usually approximately known to both parties beforehand). And in any case the *amɪn*, the head of the guild, is there to settle any disputes.

A more decisive factor for the development of the Islamic ethic of economic activity was the great incentive to seek perfection in everything. In order to deserve the threefold reward of his action (the material one of the financial counterpart; the psychological one of joy in an action well done; and lastly the metaphysical one of God satisfied with His servant), a man at work must put all his skill into his task, take all the time he needs over it and add all his heart.

By Islamic standards work is an emotional investment, complete, full, without reservations and far more important than any mere economic investment. The perfection of the action brings God's blessing on the thing produced, its maker, its future users and the whole community. Islamic civilization would certainly not be what it has been without this cult of the perfect object. Judges, teachers, princes, workmen and ploughmen owe it to themselves to aim at the best, the most complete, the most genuine, and what comes closest to Qur'ānic standards. It is an obsessive, demanding attitude, full of rigour and faith, that will give everyone involved in a transaction a full sense of selfhood and make him a true restorer of the ideal.

All these values are concentrated in one key word: *itqān* (perfection). The whole organization of the craft guilds reveals this basic concern. Their harmonious, age-old method of working (which still survives in the bazaar at Isfahan and the souks in Damascus, Cairo and Fez) divided up the technical tasks and

responsibilities of their work in accordance with this ideal of perfection. It is, for example, as though the craftsman had an ideal model to reproduce: types of Platonic babouches or of theoretical pieces of furniture. To work in leather, wood, copper, amber, silk or wool is to master the material so as to animate it, breathe a soul into it and make it convey a message. It is faith in work. And the hierarchy of workers is a function of their greater or lesser ability to master the material and instil a theoretical model into it. The *amīn* is well named, for the word (which means 'trustee, reliable man') denotes a man who, after a whole exemplary lifetime of toil, competence and piety, has proved that he possesses art and faith to a greater degree than his peers.

We come back to what we were saying above: there are not working techniques on the one hand and spiritual asceticism on the other. In Islam, working techniques are a prayer. Piety, knowledge and skill are extensions and reinforcements of each other. They are all of a piece. They all grow from one root. Acquiring knowledge, putting it into practice and the lifelong improvement of both are duties, and form part of the lifelong *jihād*: the effort to master the world and make one's mark. Piety has its place not only in the mosque: it finds expression just as much in the bazaar (which adjoins it) as through all the techniques put at the service of the community. Islam spiritualizes economics, technology and science: and that is no mere metaphor.

The sense in which there is no independent wealth will be clear. Wealth is only a fact that needs a meaning. The *jāh* that can be bestowed on it (which is at once power, glory and happiness) draws its legitimacy only from the spiritual background: its origins, the way it was acquired and the use that is made of it. The source of wealth ranks higher than wealth itself. The historic finalities and the ultimate ends sought by its holder are what confer 'authority'. The latter remains fundamentally that of the just, pious and hard-working believer.

We cannot end our analysis here without considering the problem of how up-to-date these views are, especially since social, political and economic conditions are no longer the same, in a divided Muslim world that has lost the very mainspring of its political and perhaps cultural unity. To what extent can Islam keep up with the times? In other words, is this Islamic philosophy of work outdated? It is apparent that this philosophy is wasting away, that 'modernization' provides an incentive to take radically different paths, and that the challenge to Islam both from within and without insists on seeing this philosophy as an obstacle to development. It must certainly be acknowledged that the Islamic conception of work has in too many cases stopped being the fundamental influence in Islamic education. Do Muslim workers always still appreciate the majesty of their activity? Has general and vocational education inculcated this sense of piety, and does it convey an awareness of the fundamental unity of knowledge, technology, vocational training and sense of duty? If a philosophy is not keenly lived out by the

members of a community, and is not enduring in their minds and behaviour, is it not a dead philosophy?

Is it surprising that the Muslim world has difficulties in understanding itself on a healthy basis? Modernization is nowhere yet taken in its own terms or as something resulting from an inner requirement; it is nearly always equated with Westernization. The mistake is a serious one, and not at all a matter of chance. It is the result of forgetting the significant fact that every society is modern in relationship to itself, and could not replace its own modernity with other people's modernity without inflicting a moral wound on itself. All forms of colonial alienation are covered by this forgetfulness.

However, the European technological revolution, which was so real and decisive, was brought about in a specific human, social and cultural context: in it economic activity was definitely cut off from its antecedents. It became a standard in itself, and even the standard of standards, since both liberal and Marxist conceptions see it as an independent activity, or even a conditioning one as the infrastructure of society as a whole. These positions are diametrically opposed to those of Islam. The primacy of economics has given ethics, morality, religion, culture and education a bad name: they are tolerated, but 'only in their place'.

Technology and economy have become ends in themselves: and since they are historic, their values are now only ephemeral. In them progress has become divorced from the process. Manufacturing is now no more than a technique for producing objects, with immediate effect, and anyway condemned at the very moment they are made to be overtaken by new techniques and fashions. Economic activity becomes transient and transitional, temporary and precarious, and without ontological density or depth: and this is in Western society itself, where it arose. Can it be otherwise in societies which still live only on credit?

Machine work, or assembly-line work, assumes great importance; the clumsiness and unskilfulness on the part of the workforce no longer matters, and still less, at their level, does perfectionism, since the search for quality has moved to the level of design. No meaningful dialogue exists between the engineer – whether he organizes the productive tool or elaborates the very concept of the object to be produced – and the specialized worker. The worker here is merely a modest 'agent': all that is asked of him is to follow the instructions for doing the job. Moreover the final stage (already widely reached) is that he is eliminated and replaced by robots.

There are real difficulties about mastering modern technology. They are linked to the growing gap that is deepening and sharpening antagonisms – whence the ideas that are widespread in the Western world, and even in the Islamic world itself, about the latter's inability to come to terms with modernity. Some people are even ready to see Islam as an obstacle to development. In this short chapter we have disposed of many preconceptions about fatalism

and resignation, and have shown that there is no place in Islam for these positions.[18]

In fact it is easy to see that as regards Islamic doctrine, the difficulties arise at the level not of principles but of their application in the current local, regional or world context. We all feel the need for a new 'development' of the doctrine and a rethinking of economic institutions: for the very simple reason that what nowadays passes for economic and social development is in the hands of institutions that not only shock the Islamic conscience but have thoroughly demonstrated their inefficiency. Must the former be changed, or must the latter be made to return to its sources again so as to make economic activity a new way of finding itself?

It has by no means been shown that it is Islam that causes economic and social backwardness. In the Third World, after all, all religions are represented. Economic and social backwardness was made good neither by colonization nor by any of its derived forms: and neither has it been made good by either liberal or Marxist developmentalist solutions.

Islam's contribution may also lie in the challenge it can offer (and which must be offered) to the idea of development itself. Recent attempts to plan 'Islamic banks' are an initiative that needs to be followed closely. The plan for an Islamic bank aims to invest, and look for profit, but from a 'different understanding of the value of capital and labour', as Traute Wohlers-Scharf so aptly puts it, adding at once: 'Instead of a borrower–lender relationship, the Islamic financial system rests on a fair division of the risks as between the lender and the head of the firm. This practice stems from the central principle of Islamic banking, based on the Qur'ān, which forbids *ribḥ*, i.e. charges or the payment of interest.'[19]

The original prohibition of *gharar*, or hazard, is here understood differently from in the medieval period, when loans were made at usurious rates to exploit the poor. For the situation of over-monetarized modern economies, as accepted by those who have acknowledged the need for lending at interest, can equally well lead to a reasoning which justifies the prohibition of interest. 'There is no longer any need to finance loans. For an active commitment in a company through profit-sharing is a better way of directing capital into production plans without imposing an extra financial burden on the community.'[20]

For the promoters of the Islamic bank, the aim is not merely the implementation of an Islamic value; the fairness of profit-sharing, efficiency, economic stability, growth, and economic and social development are equally valid objectives. Some people hold that financing with interest-bearing loans

18. See our critique of the position of a certain European sociology in A. Bouhdiba, 1958, II, pp. 125–65.
19. T. Wohlers-Scharf, 1983, p. 61.
20. *Ibid.*, p. 62.

can be very unfair and very inefficient: only the entrepreneurs are penalized or collect very big profits. 'So far as the public debt is concerned, interest-bearing loans are unfair in the case of national crises such as lost harvests and floods, and inefficient for development aid.'[21]

Is the international indebtedness that is nowadays crushing the Third World so different from the usurious practice of the Middle Ages? Some people notice that 'three decades of debt financing have not enabled the debtor countries to be self-sufficient or become less dependent or capable of generating a surplus for repayment'.[22] It may very well be that this challenge by Islam to international finance is a genuine Islamic contribution towards the analysis of the problems of the Third World and towards the task of development, in the sense that it aims in the last analysis to replace divisions and relations based on domination by another conception of international relations based on participation and solidarity.

This attempt, which is long awaited and meets a real need, is evidence that the inventive genius of Islamic economic institutions has not dried up. Moreover for over a century we have seen the gradual development, by way of legal consultations and radical changes, of a whole system of adjustments that has enabled Islam to lay genuine foundations for development. The fact that there is still a long way to go must not prevent us from seeing that positive steps are under way.

The real mistake would be to believe that ethical values are laid down once and for all, whereas the creation of values is a continuing process. A value is dead if we stop accepting it and sustaining it by making it part and parcel of our actions and behaviour.

But it is an equally serious mistake to suppose that something to which one adjusts is an eternal model, whereas every model is historical. Economic activity today is only an episode, not an end in itself. The requirement in ethics, as in economics, is thus not to adjust to something, but to create: and it is on the ability of Muslims to recreate their economic standards by re-appropriating their own ethical standards that the fate of the Islamic civilization of tomorrow depends.

21. *Ibid.*
22. See N. Ṣiddīqī, 1980.

Chapter 11

POLITICAL THOUGHT

Abdelwahab Bouhdiba

Islam underwent its first crucial revolution when it moved from Mecca to Medina. Preaching stopped being ethical and spiritual and became political and social as well. Mecca was Islam emerging in people's consciousness; Medina was Islam inaugurating the era of collective organization. At this emergent level the 'worries' of managing everyday life crystallized and the assumption of responsibility for the problems of group life made itself forcefully felt. Thus thinking about the idea of power in Islam does not start with reality but is summoned up by the very idea of Islam. Hence if power is the sum of the constraints on people as independent individuals and members of the various communities to take concrete decisions about the material organization of their lives, and implement these decisions, Medina must certainly be acknowledged as marking the birth of the Islamic state. Ever since, the question has been how Islam managed to transfer the spiritual movement into the world and involve it as a historical force. Moreover this 'historical' problem did not arise once and for all; it arises all the time. It is not a momentary but a continuing problem. It is not enough to summon people to justice, fraternity, solidarity, responsibility, freedom, work and sincerity. We need all the time to decide what these values mean and to devise practical ways of making them operational.

How has Islam, through the ups and downs of history, understood the exercise of power? How has it met the challenges? How has it translated into action the grandiose vision it offered mankind not only to manage its own everyday life for the best but to make it an eternal crucible in which values are tried and tested? These are the problems that the present chapter will seek to develop.

Some preliminary remarks are called for here. The origins of Islam's idea of power, and its continuing debate with the world down the centuries, involve an approach that is at once theological and historical.

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values need to be devised and brought into being. Now although the values are one in their nature, they differ in their manifestations; although eternal in their essence, they are precarious and fragile in their expression. This gives us a sort of 'key' to a new and consistent interpretation of the extraordinary proliferation of theories of power in Islam, and to an understanding of how 'opposites' can both be right. As Montesquieu so brilliantly said: 'Strange but true, it is never reason that makes reasonable things, and the way to them is never through it.' We do not propose to set out in detail here the history of the political theories that have claimed to stem from Islam, still less those of the regimes and dynasties that have in their own ways built up the political heritage of Islam. We are concerned here to understand how, since the very idea of 'secularizing' politics is remote from the spirit of Islam, the value of political matters has been made part of life. There is no word in Arabic for 'secular' or 'secularization'. The equivalents given for these words are mere approximations, which further reveal the quandary of current Islamic thought as against what has prevailed in the West. *Zamānī* (temporal) and *dunyawī* (worldly), in the true sense and in a genuinely Islamic cultural climate, imply no break at all with the theological spirit. As for the idea of 'secularization', Islam itself requires it: it is a fundamental datum of the religion itself. The vocation of the faith to build a worldly civilization requires it: in other words, the tensions experienced by European religious thought, in a Western Christian context, could not be experienced with the same intensity or in the same register by Islam. There is no need to dissociate the temporal from the non-temporal, or to render unto Caesar that which is Caesar's and unto God that which is God's. Everything that is Caesar's is in the first place God's. The problem is quite different, namely to bring the will of man into harmony with that of God.

The question of power in Islam must thus be tackled without preconceptions; we must stop regarding the Western view of power as the criterion and reference point. We propose to trace the genesis of the Islamic conception of power. The word 'genesis' is essential here, with its double meaning of 'birth' (*mīlād*) and 'coming into the world' (*takawwun*): it suggests the emergence and setting up of a system of values in the world. First there was revelation, then development, extension, deepening and transcendence. The Islamization of power is thus not a once-and-for-all achievement or datum but a campaign pursued for fourteen centuries with varying fortunes and never to be completed.

The Qur'ān announced to the faithful: 'This day have I /Perfected your religion /For you, completed /My favour upon you, /And have chosen for you /Islam as your religion' (V. 3). This winding-up of the religion, formally proclaimed in Muḥammad's farewell sermon, assumed extraordinary importance. It marked the end of the unfolding of prophecy; from now on heaven was to be mute. But it was by no means total silence, for the Book

remained, open and a continuing purveyor of meaning. Islam moved into the post-Muḥammad phase, and the farewell sermon already showed that the worldly path would be long and difficult for the Islamic community; it would have to follow the founding instructions so as to continue the campaign to flesh out the faith and translate divine precepts into meaningful actions.

'Men, listen to my words and weigh them; for I have finished my life; and I leave in you that by which, if you are faithful to it, you will for ever avoid straying away, a clear thing, the Book of Allah and the *sunna* of his Prophet. Listen to my words and weigh them.' These last injunctions were obviously not addressed only to the Muslims present around Muḥammad, but to the whole community present and future. It is also undoubtedly the sense of the poignant questioning that punctuates the whole of the jerky, dramatic text *alā hal ballaght, Allāhumma f-ashhad*, and of the other crucial injunction: *fal yuballigh al-shahīd al-ghā'ib* (Let the witnesses here present take what they have heard to those who are absent).[1] This obligation of *balagh* and *tabligh* is coextensive with the whole Muslim community. Inaugurated by Muḥammad, the fulfilment of the spirit of the Qur'ān is thus perpetuated from generation to generation, and is still among us today. The founding words are also political statements and underlie a style of power. They posit Islam's continuing vocation to the rational and just exercise of power.

The campaign thus pursued throughout the long history of the Muslim peoples has been twofold. It has consisted, first, of extracting all the implications from the precepts of the Qur'ān and the sayings of Muḥammad, these being regarded as the basis and foundation, and going all the way with them. These principles had to be 'reported', recorded and analysed and their meaning interpreted; a summary had to be made and a doctrine drawn up from them; their consistency had to be shown and their textual, historical and metaphysical authenticity asserted; and above all, all their implications had to be extracted. The theoretical work, though virtually 'finished' by the second/eighth century as regards the 'recording' part, could not be declared 'completed' as regards the remainder, although the shutting of the door on *ijtihād* seemed at one time to mark the end of it. For this process of exegesis, interpretation and development is brought to bear on thought that is rich and essentially 'infinite'. Infinite revelation, prolonged indefinitely.

At the same time there was another campaign, started during the Prophet's lifetime, to devise and set up cultural, judicial, economic and political institutions to regulate government and its ordinary everyday forms and manage the business of the Muslim community – all this in conformity with doctrine. The institution of marriage (and hence of the Muslim family), of justice (and hence of the whole procedure of evidence), the fixing of the *diya*

1. Al-Ṭabarī, 1879–1901, I, p. 1755; Ibn Hishām, 1955, II, p. 604.

(blood-money) and the setting up of *ḥudūd* (punishments) – all this constitutes the source of Islamic penal law. The organization of trade, the rationalization of barter and its terms, monetary practice and the questions that flowed from it, the organization of the calendar, the instituting of military service in the framework of holy war . . . The ten Medina years were creative and innovative. With varying fortunes, all the institutions set up – and which were still embryonic at Medina – were to undergo a development that bears witness to their extraordinary fecundity.

We would stress the idea that the Islamic genesis of power, in theory and practice, is essentially an incomplete genesis. To be a Muslim is to be permanently in search, not of truth but of its application to the real world; not of disembodied pure values but of the best way of integrating them into a life that overwhelms us on all sides, obstructs our path and too often defeats us. Islamic consciousness has to make its way between a present that is often obscure and a future that is yet to be.

It is easy, too easy (and some foreign observers have allowed themselves to do so) to contrast intentions and deeds, and to question the former in the name of the latter; or in appraising Islamic rule to take account only of the historical circumstances that have often set some Muslims against Islam. The direction of power in Islam is in fact controlled through the contradictions and temptations of history by reference back to the doctrine. The crowded and contradictory history of power in Islam needs to be read in terms of this pattern. Otherwise the way is open for any assertion, and it will be impossible to appreciate either what Islam sought to do or what it actually did.

This way of conceiving the relationship between the doctrine that rationalizes reality and the reality that influences the doctrine in this or that direction implies a dialectical reading of the concept of power in Islam. Our purpose here is simply to set out the norms of political activity. We do not intend – nor indeed are we competent – to elucidate this dialectic itself, which remains to be brought out. We shall deal only with one of the two aspects, so as to understand at least in a general way the Islamic awareness of political activity, which refuses to remain at the theoretical level and at once hastens to implement itself. Only in this way shall we understand why the return to fundamentals recurs again and again in the political history of Muslim societies. The point is that that is determined by the idea itself of developing the doctrine, to which we have previously drawn attention. The inevitable continual return to the prime Revelation is not a sign of weakness, nor of momentary poverty and loss of vitality, nor of distress, but is part of an essential process: returning to the source and to the light, and keeping in touch with basic principles; not reaction but reactivation.

So we must grasp the broad Qur'ānic principles that govern power. The truth is that no very great explicit disquisitions on power or descriptions of

specific institutions are to be found in the Qur'ān. Nor is there a conceptual analysis of the nature of political activity in its confrontation with spiritual activity. There is something better: a corpus of injunctions and a set of principles of life. The Qur'ān is the most sociological of Revelations, and forms the basis of a real art of shared living. The human religious awareness aroused by the exhortations of the Qur'ān is both personal and communal. The union and synthesis are immediate. Individual meditation is neither antithetical to nor exclusive of the collective practice of religion. Worship, whether personal and individual or carried out according to communal modes, is a dialogue with God which transcends and unifies collective diversity and at the same time gives the human person his/her true dimension.

Among this plethora of prescriptions for shared living there are four essential verses which are the mainspring of political life. Two relate to *shūrā*, or collective consultation for taking political decisions: they concern, as we would say today, methods of decision-making. One key verse relates to *amr* (political authority) and the last to *hukm* (government of men):

> Whatever ye are given (here) /Is (but) a convenience /Of this Life: but that /Which is with God /Is better and more lasting: /(It is) for those who believe /And put their trust /In their Lord; /Those who avoid the greater /Crimes and shameful deeds, /And, when they are angry /Even then forgive; /Those who hearken /To their Lord, and establish /Regular prayer; who (conduct) /Their affairs by mutual Consultation; /Who spend out of what /We bestow on them /For Sustenance, /And those who, when /An oppressive wrong is inflicted /On them (are not cowed /But) help and defend themselves . . . (XLII. 36–39).

> It is part of the Mercy /Of God that thou dost deal /Gently with them /Wert thou severe /Or harsh-hearted, /They would have broken away /From about thee: so pass over (their faults) and ask /For (God's) forgiveness /For them; and consult /Them in affairs (of moment). /Then, when thou hast /Taken a decision /Put thy trust in God. /For God loves those /Who put their trust (in Him) (III. 159).

> God doth command you /To render back your Trusts /To those to whom they are due; /And when ye judge /Between man and man, /That ye judge with justice: /Verily how excellent /Is the teaching which He giveth you! /For God is He Who heareth /And seeth all things./O ye who believe! /Obey God, and obey the Apostle /And those charged with authority among you. /If ye differ in anything /Among yourselves, refer it /To God and His Apostle, /If ye do believe in God /And the Last Day: /That is best, and most suitable /For final determination (IV. 58–59).

A threefold constellation of values, distributed around the key concepts of consultation, justice and the duty of obedience to rulers, is thus proposed. Democracy, fairness and a sense of discipline are the three features that legitimate the Qur'ānic exercise of power. The first passage puts on the same level

of the right path: innocence (which is the non-existence of sins and baseness), self-control and strength of mind (which is anger repressed and impulsive feelings overcome), response to God's call (which is reciprocity of view with Him and assiduity and punctuality in prayer) and sharing possessions with fellow beings. And right in the centre of all these virtues comes management of affairs in a collective, associative and sharing way. Purity, generosity, prayer and charity come under the same heading as consulting about the paths that lead to happiness. The speciality of believers is to settle their affairs by *shūrā*. Muslims are called upon to take counsel together, just as they are to observe the other Qur'ānic virtues. Here solidarity takes on an essential and practical meaning.

The second passage from the Qur'ān is more than a mere universal admonition. It is an order addressed to the first among men. The Prophet himself is called upon to consult his own Companions. 'Psychological' considerations are expounded. *Shūrā* is held out as a special type of interpersonal relationship. The mechanical, despotic exercise of power is rejected, even (indeed especially, we would say) at the level of the Prophet, for all that he is so close to God. The solitary, arbitrary exercise of power, accompanied by hard-heartedness and inhuman behaviour, can only estrange men from the Prophet, and a fortiori from one another. Hence people must rise above themselves and even pardon, and pray God to pardon, their fellow men. *Shūrā* thus aims to find the consensus. It is the central feature in preparing a decision that will be executed with God's blessing. Dialogue between men makes for success and calls forth the help of God Himself. Thus all self-centred action, dictatorship and tyranny are excluded from the scope of the Islamic exercise of power. *Shūrā* features in the Qur'ān itself as an order given – and, what is rare, argued by God Himself – to the Prophet, and so a fortiori to all who lay claim to the Islamic practice of power.

The two other verses we are considering follow each other in the holy scripture, and support each other. They are final instructions, the first to governors, the second to the governed. In them the government of men is likened to a deposit: it must be returned to the real owners of the deposit (*ahlihā*). So governors must govern men and judge between them in all fairness. Thus there are three ideas: power is a deposit; it belongs first and last to the governed themselves; and in any event it must be exercised in all fairness.

The last instruction, based on the principle of obedience to the holder of power, is merely the consequence of the set of values advocated. In order of ontological precedence, obedience to the prince comes only third, after God and the Prophet. The duty of obedience is thus immediately conditioned by a dual reference to the Qur'ān and the *sunna*. A sense of discipline is required, but is not unconditional; it is subject to the Law.

These texts, in their majestic brevity, have been the main inspiration

from the origin of Islam until today. It would not even be possible at present to draw up an exhaustive list of the thousands of pages that, unbroken down the centuries, have been written in both East and West in dozens of languages to explain their meaning and extract a system of government from them. From Abū Bakr to Khomeini our history has been rich in analyses and interpretations. Explanation has followed three main lines. First, there was Qur'ānic exegesis properly so-called, which was bound to dwell long on such essential passages. Second, there was *fiqh*, codifying the Law and extracting from it the ultimate theoretical and practical, but also the jurisprudential implications, case by case. Third, and above all, there developed a specific discipline of Islamic political law, *siyāsa shar'iyya*, with the explicit purpose of bringing out and systematizing the principles of good government in Islam. Two authors played a key role in crystallizing and codifying *siyāsa shar'iyya*: al-Māwardī (d. 451/1059) and Ibn Taymiyya (d. 728/1328).[2]

Al-Māwardī is the author of *al-Aḥkām al-sulṭāniyya* [Governmental Statutes] that drew up the most famous theory of the caliphate–imamate, which was to have such a wide influence. According to him: 'God . . . ordained for the community a leader through whom He provided for the vicegerency of the Prophet and through whom He protected the community' (*wa-ḥamā bihi al-milla*); and 'He entrusted to him authority (*wa-fawwaḍa lahu al-siyāsa*) so that the management of affairs should proceed [on the basis of] right religion and that there should be unanimity on an opinion which is followed, and the imamate became the principle upon which the bases of the community were established, by which the well-being of the community was regulated (*fa-kānat al-imāma aṣlan 'alayh istaqarrat qawā'id al-milla wa-intaẓamat maṣāliḥ al-umma*).'

In all orthodoxy, the twofold purpose of power remains the protection of the faith and the management of history (*ḥirāsat al-dīn wa-siyāsat al-dunyā*).[3] The framework thus marked out is self-evidently necessary in terms both of the precepts of the Qur'ān and of the practice adopted after Muḥammad's death.

Two and a half centuries after al-Māwardī, Ibn Taymiyya took up the question again, and drew up (still from the same two verses of *sura* IV) a

2. In addition to al-Māwardī and Ibn Taymiyya, there is a long list of texts available for reference. We must quote at least the following: Ibn al-Farra (380–458/990–1066), *al-Aḥkām al-sulṭāniyya*; Ibn 'Aqīl al-Baghdādi (431–513/1040–1119), *Kitab al-Funūn*; Ibn Qayyim al-Jawziyya (691–751/1292–1350), *al-Turuq al-ḥukmiyya fi al-riyāsa al-shar'iyya* and *A'lām al-muwāqqi'īn 'an rabb al-'ālamīn*; al-Ṭurṭūshī (451–520/1059–1126), *Sirāj al-mulūk*; al-Samhūdi (844–911/1440–1505), *al-Lu'lu' al-manthūr fi naṣīḥat wulāt al-umūr*. Not to mention the philosophers and, of course, Ibn Khaldūn (1336–1406), *Muqaddima*, and Ibn al-Azraq (1353–1411), *Bada'i' al-silk fi ṭaba'i' al-mulk*.

3. Al-Māwardī, 1973, p. 3.

whole theory of public administration, taxation, defence, the development of trade and the enforcement of penalties and punishments.

It is significant that al-Māwardī, just like Ibn Taymiyya, while apparently indifferent to the events of their time (which almost never appear as such in their works), operated strictly in the realm of norms. For both of them it was a matter of restating an ethical requirement, basing it on the Revelation, and thus keeping the duty of the prince or public administrator 'committed' within the twin confines of the sacred and the secular. The reason why every policy must be in accordance with the *shar'* is because the method of political logic in Islam is a compromise between the method of religion and the method of everyday life. The art of good government, *siyāsa shar'iyya*, consists of the ruler's demonstrating sufficient creative genius to 'understand' situations and reduce them to law. Knowing the facts and assuming the values: that is the aim to be striven for. Urging people to imbue themselves sufficiently with the spirit of the Qur'ān to behave in accordance with its holy precepts, as though by second nature: that is the object of all political teaching. *Siyāsa shar'iyya* thus aims to convert the *shar'* into reality with all possible flexibility and desirable success.

From this common stock, which was always accepted by all scholars, several tendencies and trends emerged. There are essentially four of them. The Shī'ite tendency limits power at the outset to the Prophet's family (*ahl al-bayt*), in short to 'Alī and his descendants. The Shī'ites maintain all the Qur'ānic requirements of *ḥukm*, *'adl*, *amāna*, etc. The ruler's duties are 'to defend the religion and govern the world'. But there is also a need for legitimacy. While the legitimation of power admittedly still stems from its strict conformity with the precepts of the Qur'ān, its legitimacy is also linked to direct descent from the Holy Family. The point is that the prophetic nature of power could not become extinct with Muḥammad's death.

It is directed by the expectation not of a new Revelation but of the complete and glorious manifestation of all the hidden meanings of the Qur'ānic message. Politics is not merely the management and dispatch of current business. It is expectation, aspiration, projection into a future which will give the Revelation its full meaning. That is really when 'the Revelation will be revealed' and will take on its ultimate splendour. Prophecy properly so-called, which revealed the perfect Holy Text, is succeeded by *wilāya*. Muḥammad's spiritual legacy must be taken over in such a way as to enable the leader to lift himself, and his community with him, up to the level of this exceptional heritage. The imam is not merely, as al-Māwardī would have him, a defender and manager. He is a 'keeper of the Book', *qayyim al-Qur'ān*. He explains and transmits its esoteric hidden meaning. The imam is an official of the explicit and a revealer of the implicit. Though prophecy is ended in the sense that Muḥammad was the seal of the prophets, the meaning of this prophecy still remains very open. With the end of the prophets there began the era of the

awliyā' Allāh (Apostles of God). Politics is thus accompanied by an element of initiation, and even this has something fundamental about it. The imam is not merely a worldly successor (*khalīfa*) to the Prophet. He is the guide, the leader, the mediator, the proof, the living guarantee of God's truthfulness among men and of men's salvation with God. In this context, the word *ḥujja* (decisive argument) must be given its full meaning. Some Shī'ite schools of thought believe that the imam has direct access himself to the *lawḥ al-maḥfūẓ* (LXXXV. 22), the hidden Book of God. He is the visible witness to the invisible (*ghayb*). He is the link between this world and the next. Politics and prophethood are made of the same stuff.[4]

This school of thought, not surprisingly, was bound to appear suspect, since it unites what should only converge. To unite the political and the religious is legitimate, but to equate them became heresy. So the Sunni sect, with its four great schools, always sought to keep politics within the narrow limits of the *shar'*. It kept the political strictly within the narrow legal framework of the duties and obligations of the Muslim man. A governor is admittedly more responsible than the others, in that the injunctions of Islam are universal and unambiguous; also in that he has a right of coercion (*jabr* or *ikrāh*); and also in that he exerts real power over the governed, which must in any event be meaningful and dissuasive, repressive if necessary, but never oppressive.

An Islamic political philosophy of course developed with the same success as *falsafa*, meeting the same difficulties and rethinking the legacy of Greece in the light of the Islamic Revelation, these being conceived as complementary and never as antithetical or two paths to the same goal. Basing a politics on reason or on Revelation comes to the same thing in the end. Thus al-Fārābī's virtuous city (*al-madīna al-fāḍila*), while remaining faithful to the Platonic inspiration, meets the requirements of Islam. Here politics transcends the everyday. Al-Fārābī's city is not situated in the here and now; it takes in the whole world and the whole of humanity. It fixes the eternal norms and values, and requires an Islamic republic of ends. A 'Shī'ite reading' of this text of al-Fārābī is possible, in the sense that the dominant figure is that of the head of the ideal city, prophet or imam, who plays an essential role and disseminates perfection in the city. He enacts the laws (*nawāmīs*), which are but another version of the legislation inspired by the Qur'ān. Al-Fārābī's prince is, as has been said, 'Plato in the mantle of the Prophet Muḥammad'. In him wisdom and revelation successfully cross-fertilize each other.

But the virtuous city is by no means an end in itself. It is a way of directing men towards celestial bliss.

Al-Ghazālī's thinking about politics, which deserves attention, is directed towards earthly things. On the subject of the ends of the exercise of

4. See H. Corbin, 1964, p. 41.

power, al-Ghazālī says nothing else. His critique of philosophers by no means leads him not to subscribe to their idea that life in the city requires the prince to organize it so as to make the ethical virtues (not different in essence from the values of Islam) prevail there. There is the same unitary vision of the state. All the duties assumed by the caliph, imam or sultan, be they religious, political, legal, administrative or fiscal, are integrated into an overall plan for the preservation of the religion and good management of the world.

Specifically political thinking fostered a fourth school of thought, in which a very original Islamic conception of power developed. The idea of *siyāsa shar'iyya*, which owes so much to Ibn Taymiyya, was developed in itself and in relation to other disciplines. It is difficult to separate Ibn Taymiyya from the general thinking of commentators, jurists and philosophers, even though it is noteworthy how firmly and violently he distances himself from the rationalists, whom he does not for a moment hesitate to condemn violently in passing.

But from the preceding short survey there clearly emerges a key idea that runs through all Islamic thinking about power, and that constitutes as it were an *asl jāmi'*, a common stock. The precepts of the Qur'ān – even though attempts may be made to legitimize them by strictly rational arguments – constitute for everyone the foundation of all politics. Observing and safeguarding them is what guarantees the ethical health of the *umma* and gives it the spiritual and material strength necessary for its survival. They are also factors for order in the city. It is by them that a regime is judged, and from them alone that it can acquire its legitimacy.

From this basic intention very many offshoots have appeared over the years. However, down the ages there have always been two schools of thought and Muslim societies have oscillated between them, chosen between them or stumbled over them! There has been one moderate official school based on a search for precarious, temporary but satisfactory equilibrium; and one opposition school, sometimes itself official or more or less integrated, but usually in revolt, in opposition and at best marginal, based on the idea that confidence in any human power is bound to be limited and liable to be withdrawn at any time. People end up in one or other of these two schools of thought depending on how they answer the following basic question: should one support a de facto authority and force it gradually to observe the norms, coming to terms with it if necessary, or should one oppose it on principle, standing back and distancing oneself from it on straight ethical grounds?

It is of course for believers to obey authority, so long as it remains on the right path, and if it leaves it they will try to correct it, say the 'concordists'. It is not for believers to support authority unreservedly, but for the latter to remain worthy of support. In other words, believers take sides with authority or against it; it being understood that in both cases the duty of authority remains to administer the community judiciously and democratically,

and to behave everywhere and in everything in complete conformity with Qur'ānic norms.

There has always been a radical opposition school of thought in Islam that polarized around the intransigent demand for authority either firmly and unreservedly to implement all the injunctions of the *shari'a* or else to resign. Islam has always produced a type of person, whether mere thinkers or desperate activists, who advocate standing aloof from authority that is accused of complacency, weakness, compromise or dissoluteness: this applies to Khārijism, of course, and also some Shī'ite sects. But even within Sunnism itself the tendency has always persisted.

Ibn Taymiyya can reasonably be taken as representative of this school of thought. For the founder of *siyāsa shar'iyya* is rightly regarded also as the founding father of 'fundamentalism', which thanks to Wahhabism (with which the thinking of Saudi Arabia is so strongly imbued) still plays an effective role today: even though other schools of thought from al-Māwardī to Mawdūdī and Sayyid Quṭb have taken the school that started with Ibn Taymiyya on to paths over which there is much less unanimity.

Ibn Taymiyya, who lived in the seventh–eighth/thirteenth–fourteenth centuries, was, as already stated, the inventor of the concept of *siyāsa shar'iyya*. A Ḥanbalī and a teacher at the Ḥanbalī *madrasa* in Damascus, he lived in very troubled times and his radical views often earned him imprisonment; indeed, he died in prison.

The spirit of all his works rests on the idea of a synthesis between the *'aql* of the philosophers and *mutakallimūn*, the *naql* of the traditionists (*muhaddithūn*) and the intuitive will (*irāda*) of the Sufi mystics. These three ways of establishing the truth could not diverge. They had to be integrated and their differences reconciled: and this would make it possible to achieve a single version of the credo, the restoration to man of his power of *ijtihād*, and the building of the state. This mediatory doctrine (*wasaṭ*) implies a powerful intellectual activity put at the service of the faith, and at the same time an aptitude for distinguishing truth from falsehood, so that authority is exercised in the true direction that makes it possible to align it on the spirit and letter of God's commandments. Knowledge and power reinforce one another. Of course, for the ultimate mystery of things one must submit to God by an act of subjugation (*taskhīr*) and delegation (*tafwīḍ*). But for the everyday practice of the management of worldly affairs and the interests of the *umma*, we must use effort (*ijtihād*) to understand what is at stake in our decisions. Moreover *ijtihād* does not have to be either open or closed. It is a permanent natural attribute of man; and moreover is necessary at all times, if only in order to understand the Revelation and implement it in everyday practice.

In the ordinary exercise of his responsibilities, man is at every step committed both for his personal sphere and for all the interests of the *umma*. There is no reason to distinguish between religion and state. They are per-

manently bound up with one another. The interrelation must be maintained and strengthened, to enable religion to enlighten the state and the state to serve religion. The tensions that arise cannot be justified for long, and must be reduced, for they are rooted either in the illegitimate use of power or in a misunderstanding (neglect or excess of zeal) of the divine precepts. The state must be just and powerful in order to carry out its task. Justice (*'adl*) and coercive power (*shawka*) are both equally necessary. Without the power of coercion, the state loses its strength and soon becomes a plaything in the hands of those who live their lives according to their desires, *aṣḥāb al-ahwā'*. Without the light shed by the divine Revelation, the state becomes oppressive and tyrannical. *Wasaṭ*, the harmonious balance of justice and strength, is what gives the state its true function and enables it best to perform its tasks and carry out its various functions. The triumph of justice, the enjoining of good and the avoidance of evil imply a state that is strong but aware of its role. Thus it will be able to bring about the reign of Islamic ends, by unifying the *umma* and satisfying the conditions that make possible the advent of a society vowed to the service of God. Thus are all the contradictions removed and the tensions relieved between authority, with its risk of oppression, and the Qur'ānic norms that are in danger of remaining a dead letter. The latter remain the only possible criteria for the worldly management of Muslim society. Thus too the use of coercion is justified, recourse to force and violence is legitimized, and operational ways of giving Islamic values a real content and a historical depth in keeping with their ontological density are identified.

In his *siyāsa shar'iyya* Ibn Taymiyya devotes himself to bringing out the principles that should make possible the best management of the affairs of the city in terms of just policy and virtuous administration (*al-siyāsa al-'ādila wa'l-wilāya al-ṣāliḥa*). Authority (*al-sulṭān*) must aim to move closer to God. Here intention is crucial:

> Thus if through the search for power and the acquisition of property people work and spend in ways that are His in order to come closer to God, then yes, that is behaving well for this world and the next. But if authority parts company with religion or religion with authority, then the condition of man is certainly corrupt. What distinguishes the pious from the impious is intention and good deeds.[5]

Two paths are equally to be condemned: claiming verbally to be of the faith without implementing this affiliation by carrying out the action needed to strengthen authority by taking the necessary military and economic measures; and seizing power, property and armed forces without aiming to strengthen

5. Ibn Taymiyya, 1969, pp. 177–8.

religion. These are the paths of deviation, and 'provoke the righteous anger of God'.

The wielder of authority – whether by political, financial or military means – is thus bound to put them at the service of justice as defined by God. Laoust very well summarizes Ibn Taymiyya's point of view: 'Every imam is at once the proxy (*wakīl*), guardian (*wālī*) and partner (*sharīk*) of those whom he administers, and therefore his mission is to construct and instil respect for the system of orders and prohibitions which, within the framework of the revealed Law according to the circumstances, is to govern the various areas of the life of the community.'[6]

Thus the theory of power develops a sense of solidarity and community that underpins the *umma* de jure and organizes it de facto. Believers are not strictly speaking subject to the prince. Governors and governed are equally subject to the Law, i.e. in the last resort both to reason and to the collective will of the *umma*. They are interdependent one with another. The prince is a believer like the others: he acts only by virtue of a delegation of authority, together with a mandate to carry out tasks that are almost self-evidently necessary given the circumstances in which the authority is exercised and the ends assigned to it. The prince is only an administrator of values, which is already a noble mission. But the association between governors and governed is not *carte blanche*, without limits or conditions. As a member of the community, and also as the possessor of an ability (knowledge, skill or technique), the believer retains all his prerogatives intact. More, he has an obligation to give the prince his help. He too must fulfil the *farḍ kifāya* by the *farḍ 'ayn*, and make his contribution to the government of the city by enjoining good, forbidding evil and advising those around him. An educational function is delegated to every believer, and this enables everyone to play a role, no matter how modest, in enabling the prince to carry out his tasks better. All believers around the prince, and the prince at the service of all believers.

There is of course no question of diluting the prince's responsibilities or duplicating his authority by a diffuse power given to all. Believers are constrained to the duty of solidarity. They must not disrupt the unity of the community, except in extreme cases where authority deviates to the point of requiring believers to contravene the divine injunctions. For 'there is no need to obey a man who asks you to disobey God'.[7]

If permanent supervision is to be exercised over the governor, it is because power-sharing forms part of the doctrine. It is a double duty both for the prince to consult, take counsel (*shūrā*) and also for qualified people to put themselves unreservedly and without ulterior motive at the prince's service,

6. H. Laoust, *EI²* art. 'Ibn Taymiyya'.
7. Ibn Taymiyya, *op. cit.*, p. 3. See H. Laoust, 1939, pp. 288ff.; *idem*, *EI²* art. 'Ibn Taymiyya'.

i.e. at the service of the whole community. The preparation and implementation of decisions are at least as important as decision-making itself, and at every level the contribution of everyone's abilities is vital.

Ibn Taymiyya's militant thinking represents a key point in the crystallization of Islam's political doctrine. Though relatively late, it was still crucial. The period immediately after the end of the Crusades, the Tartar threat, and economic and social anarchy made this view of things stand out in striking relief. But as so often in such cases, returning to origins and basic principles is an excellent means of defence.

But the fate of these views in Ibn Taymiyya's own lifetime cannot be too strongly stressed: his challenging, insolent, not to say impertinent attitude compelled respect. Many schools of thought were to trace their origin to the vigorous points of view developed in the *siyāsa shar'iyya* and the *fatāwa*, even though sometimes one aspect of the doctrine and sometimes another was used. Wahhabism managed to take over the nub of the analysis.

The Qur'ānic dyad – loyalty of the mass of believers, and fairness of princes and ruling bodies – is the kernel of the Islamic conception of the state. Power, with the exorbitant privileges that may be attached to it, represents for every human consciousness a fascinating phenomenon, inevitable but at the same time terrifying. The great question remains of establishing the order of priorities, not at the ontological level (where fairness without any possible doubt takes precedence), but at the level of human order. Must people first obey and wait for there to be injustice to fight against; or does injustice automatically abolish the prince's privileges, relieve the believer of his duty of obedience and put an end to the obligation of discipline and respect? Must people start from obedience and look for justice, or must they start from the requirement of justice and if necessary fight against the deviant prince?

These questions have always exercised the *faqīhs*, and still do today. Ibn Taymiyya's reasoning is impeccable: it is indisputable in the true sense. In practice, the ulemas played an essential role. Their knowledge, competence and rectitude gave them a rare moral authority (*jāh*) in all Muslim communities; sometimes it went as far as holiness (*wilāya*). Their attitude was decisive in building up numerous regimes . . . and in the downfall of many others. Many underwent martyrdom or imprisonment, or paid with their lives, for upholding the requirements of religion in the face of one man's whims or another's tyranny. Conscientious objectors in the world of Islam were always, and almost continuously, recruited from their ranks.

So it has often been accepted that it is the ulemas who constitute the power base of authority. They confer or withdraw legitimacy. Even when it was merely formal, the *bay'a* came from their ranks. They were the people who 'tie and untie' (*ahl al-ḥall wa'l-'aqd*). They were also the *aṣḥāb al-jāh*, the people of primacy, the *afāḍil*. For Ibn al-Qayyim al-Jawziyya they were even the only ones

Wondrous tale in verse of the Prophet Muḥammad.
The Negus surrounded by his court receives 'Umar and Umayya,
who bring him a letter from the Prophet
© Bibliothèque Nationale, Paris

who must be unreservedly obeyed: 'Loyalty to the prince comes after that due to scholars.'[8] That is a significant shift in the order of priorities, and one which sets up the doctors of the law as a real pressure group and focus of opposition. It is they who bear the truth expressed by the Qur'ān and transmitted by the Prophet. We see an adumbration here of the Shī'ite theory of *wilāya*.

This is a new way of posing the big problem of *shūrā*. Authority is not an end in itself. It is a means at the service of the greatness of the community and the cause of Allah. So the wielder is subject to the pluralist imperatives of the *umma*. Hence the emphasis on the concept of *shūrā* itself as the basis of good government. The duty of consultation has always inspired all Islam's political thinking. The idea of *shūrā*, which is at once consultation, deliberation and participation, is charged with meaning. The root *shāra* is very meaningful. It means 'to collect honey'. *Istashāra* means 'to put on fine new clothes'. *Shūrā* is all the processes that enable people to reach the best possible decision and to choose the best man to implement it. *Shūrā* is the perfect fitting of the best means to the true ends, and putting the right man in the right place. *Siyāsa shar'iyya* is the art of using men and things rationally; it is the best possible management of the *res publica*. Ibn Taymiyya spells it out when he enjoins the prince always to choose the best of his colleagues, then the 'next best' in order: *al-amthal fa'l-amthal*.[9] It is indeed the only way of carrying out the mission entrusted to him conscientiously and with full knowledge of the facts (*ba'da al-ijtihād al-tāmm*).

Shūrā, instituted in the Qur'ān, is a joint consultation of all believers; and on points not such as to impinge on the strictly religious sphere it must comprise non-believers. It forms the foundations of a genuine human fraternity. Its purpose is to provide decision-makers with enlightened technical opinions (*ārā'*). It is an inalienable right vested in all believers. It is also the right of the manager of public affairs to be able to count on everybody's help. He must even be in a position to demand it. The associative and participatory exercise of authority is a shared duty that is incumbent on governors just as much as on the governed.

'Democracy'? Maybe, but a democracy in which the emphasis is on quality, value and content, not on appearances or the formal process. Democracy here is equivalent to aristocracy and the responsible exercise of power, i.e. choosing the best and assuming the good. The main requirement is that public activity be enlightened and participatory.

The actual legal form that political power might take has never really interested Muslim writers. It is as though principles came before institutions. The main preoccupations of modern political life relating to the material organization of the exercise of public authority, the division of power between

8. Ibn Qayyim al-Jawziyya, 1969, I, p. 10.
9. Ibn Taymiyya, *op. cit.*, p. 11.

three estates, their relationships with one another, voting systems, electoral law – all that is secondary, immaterial and of no importance in itself. This amounts to seeing the issue in terms of ethical requirements, and opening the way to all forms. What counts in the last analysis is the internal nature of authority and the ends it sets itself. In Islam the ends never justify the means. The latter are to be judged in terms of their suitability to achieve the former. The ends can only order the choice of the best means: *al-afḍal, al-a'dal, al-awsaṭ*, as al-Shāṭibī says in a famous text.[10] For him:

> the *shari'a* delegates responsibilities in the most mediatory and equitable ways which take both extremes into consideration in such a way as to lean neither towards the one nor towards the other . . . This delegation is done in accordance with a balance that demands extreme restraint of all who exercise any responsibility whatever. If legislation were to come up against a real or supposed deviation that drives men to act in an extreme way, it can use its influence in the opposite direction so as to bring the extreme back towards a balance.[11]

Holding a steady course and playing a regulatory role is the twofold concrete objective linked to the sphere of action and the choice of means, which must remain legitimate and at the service only of this fundamental social harmony.

Historically this sort of *wasaṭ* (consensus-building) is what most conditioned the customs of Muslim societies, which (armed with the same principles and the same Book) had to cope with extremely varied political situations. The latter were bound to arise during a millennium and a half of uninterrupted history that gripped countries, cultures and peoples as varied and different from one another as those that made up and still make up Islam.

We share the view of the late Sheikh Maḥmūd Shaltūt, who records that Islam did not arrange any specific organization for the process of participation. This was no oversight, nor an underestimate of the importance of the role of the institutions whose task it was to give the principle of *shūrā* a concrete content.

For, as the sheikh noted, the forms of institutions change naturally, and points of view about these forms 'vary with the generations and with human progress. If the Prophet had ever in the early days of Islam given them a fixed form, this would have been regarded as an archetypal model from which people would have had never to deviate.'[12] If the organization of *shūrā* was not regulated at the outset, it was so that every Muslim society and every age 'may be able to choose what people's minds can conceive and what mankind can carry out at the stage of maturity it has arrived at. The main thing is the

10. Al-Shaṭibī, 1884, II, p. 99.
11. *Ibid.*
12. M. Shaltūt, 1977–1979, pp. 440–1.

actual principle of *shūrā*, which was inscribed in the Qur'ān on the same level as *ṣalāt* or *zakāt*.'[13] As for 'its expansion into just constitutional laws subject to a consensus in the *umma*, which unite without dividing and build the social edifice without destroying or ruining it, those are easy means to achieve'.[14] The main point is to put it on record that despotism, tyranny and the solitary or improper exercise of power are inhuman and contrary to the nature and spirit of Islam. Hence any monopoly of decision-making and any misuse of power must be proscribed, whether it concerns legislation, management or public administration.

In other words, it is the value of participation that gives Islamic rule its validity. The way it is organized comes second – which does not mean that it is secondary. The Islamic values of fraternity, solidarity, participation and justice underpin the state and give it its own purpose. Here the end is more important than the means. The latter are merely instruments and tools in the service of lofty ends. Good government and good use of power must convert these principles into reality and bring about a convergence between the principles that regulate the real world and the real world informed by the principles.

The caliphate, for example, is only a form of the imamate: thus it is not irreplaceable, irreducible or non-transcendable.

Hence Islam remains available for all the concrete forms of the exercise of power: parliamentary democracy, monarchy (the ruler surrounded by an assembly of advisers and experts), an electoral system with one or more levels or rounds, forms of separation of powers, balance between central government, regional governments and local or communal assemblies, and centralized, federal or confederate state, organization and working of political parties and pressure groups, etc. All these questions must be the subject of a debate within the *umma*, and of consensus. They stem from a choice by citizen–believers. The main concern is not the form or even the structure of institutions, nor their functioning: it is that authority should fulfil the sense of values, and that the institutions and regulations (which may be common to other communities than that of Islam) should put themselves at the service of strictly Islamic ideals. It is by its works that a structure of government is judged, whether it be accepted, corrected or rejected and replaced by another. But the crucial values remain intangible, eternal and absolute: they have, after all, been the subject of a continuing and definitive Revelation.

A similar Islamic theory of power performed and still performs a twofold normative and regulatory function. It is, as it were, the framework that can comprise all the concrete forms of power provided they take account of the norms, values and precepts of Islam. The historical forms are not eternal;

13. *Ibid.*
14. *Ibid.*

they could not be immutably fixed. They themselves cry out to be transcended, and end up by sooner or later revealing their inanity. They may even turn out to be sterile from the outset. But the touchstone of sterility, inanity and transcendence is values, i.e. whether they are alive and incarnate or seem illusory, ossified, dead and beyond our reach. It is then for those concerned, i.e. the mass of believers and 'those who know', i.e. the élite, experts, the most aware and enlightened people, to renew the system and bring into being another order imbued with justice, fairness, solidarity and freedom.

It will be seen that the Islamic theory of power can be said to be a theory of the continuing invention of the forms of the state and the structures of administration, starting from the underlying principles. The specific features of the vision of the political, based on unity and diversity, are noteworthy. The theory is unitary in the sense that power within all Muslim societies has the same aims and sets itself the same goals. The political values of the whole of Islam are universal and protected from the influence of time. Unity of spirit and religious inspiration give 'Islamic fraternity' a reality and a weight that are tested at every step. Islam seeks to save both the unity and the plurality of mankind. God created us in different tribes and peoples in order to know each other and enrich ourselves with our mutual differences, not to reduce us to a standardized model. Human richness is also expressed through the ways in which Islamic values are accepted. One has to understand – and admittedly it is difficult for an outside observer – that there can be both 'an Islamic politics' in the philosophical sense of the term and also 'Muslim politics' in the historical sense. There are constants which are like the trunk, what the *faqīhs* call *uṣūl*, and there are branches, or *furū'*. To preserve the trunk, the branches need to be changed regularly; even better, there is nothing like a good pruning to make them become more beautiful, more fruitful and regain their splendour. The equally important necessity to take note of the axiological constant and the factual renewals of politics must therefore be borne in mind.

Political scientists do not, any more than theologians or lawyers, create the principles on which they work: they are already there, revealed before any analysis or writing-up has been done. But they must be aware of them, take them over, rediscover them, re-embody them, in short recreate them. The situation of the Muslim political scientist is in this sense little different from that of any of his colleagues, who look for their basic values in nature, reason or the lust for power. The Muslim political scientist, for his part, takes them from the Qur'ān, throws the light of reason on them, and in the pain of historical processes builds concrete forms of the state which will need to be tested.

That, then, is the Muslim state: the body of institutions that Muslims equip themselves with, and that organize authority in view of the problems of the day and the contingencies of the moment so as to resolve collective problems in the light of the sacred principles revealed by God and continuously

justified by reason. The exercise of authority is nothing other than the development of an activity on the basis of the inspiration of the Qur'ān.

The foundation of the Muslim state is to diffract the requirements of Qur'ānic ethics into the real world. The Muslim's role as a believer, which is indistinguishable from his role as a citizen, is to 'dialectize' the Revelation on the strength of the shape of the event and the configuration of the situation, while serving the interests of the *umma*. To exercise authority is to put a principle into practice, into effect and into history.

In the perspective of centuries, the political thought of Islam seems to the observer to have been interpreted in two ways, both equally valid. Whether we see it with Louis Massignon as 'secular theocracy', or with Mohamed Essad Bey as 'theocratic socialism', the Islamic state still represents a wager in that it must continue to bear witness to the validity of Qur'ānic inspiration and to cope with intractable social problems. The source is ontological but the medium anthropological, and in the last resort the assumed symbiosis of being and becoming, value and contingency, the absolute and the approximate.

The political thought of Islam, so rich and complex, takes account of all the factors that make up history and all the values that make up ethics. It seeks to 'socialize' ethics and 'revalue' history. Thus it has been at the root of three demands which made up and still make up the strength of Islam: a demand for justice, a demand for the right to oppose and a demand for freedom.

Justice (*'adl*) is an inalienable right of all, including and perhaps especially the weak, the *mustaḍ'afūn fi'l-arḍ*. *'Adl* rests on right (*al-ḥaqq*) and defines it. *Ḥaqq* is the practical determination of *'adl*. These are the two great notions that form the basis of the Muslim state. There can be a denial of justice but never its reduction to nought. Hence the continuing revolutionary role of the Islamic conscience, which so quickly turns to facile, not to say puerile opposition or to destructive, anarchic subversion (these being the distortions that have always waylaid Muslims as they have other peoples). Freedom of judgement, which is indefeasible, requires a practical determination in politics and a programme of action, and that requires a lucidity and skill that are not always found in combination and do not come ready made, but require analytical ability and a substantial measure of intuition. Hence what we adumbrated above as important in Islam: the believer against the powers that be. The fact is that in Islam there is always a revolution to be made, a revolution betrayed and a revolution to be remade. People forget that the best revolutions are also those that are stopped in time. Muslim political discourse is highly motivating discourse, which gave rise historically to Islamic civilization. It has maintained the greatness of Islam for fourteen centuries, despite the most serious difficulties and catastrophes. But if it has value in itself, it has value also by virtue of the use to which it can be put, which may be demo-

cratic or demagogic, élitist and aristocratic or fascist and totalitarian. Political discourse in general, and in the Islamic world in particular, is discourse which implies that the conscience is kept awake and reason eternally vigilant. Politics needs vigils of the mind so that values (around which everything turns in Islam) are not perverted and replaced by false values.

Now we very well know that values can be used as refuges, or as alibis to hide and conceal justice. In the name of Islamic justice, people have often sought a kind of populism that was nothing but a political expedient. Even the colonial authorities and the imperial powers tried, often with success, to lay claim to Islamic values in order the better to establish their domination. The quest for the modern imamate must avoid not only passivity and resignation but also the use that can be made of it for immoral ends.

Islam's good fortune and strength is to leave mankind great scope for invention. This explains its attractiveness. But in so doing, the political thought of Islam gives man back his freedom. Islam upholds a requirement. Modern Muslims who demand more justice, freedom or democracy must draw from political thought the values they need to base their society on healthy, fruitful and creative foundations. To do so is for them finally to invent their present. Faith in man's creative political power is inseparable from plain faith. But Muslim man cannot forget that the moral law is nothing without morals, and that a city without morals is a city in ruins, a dying city.

Chapter 12

Crime and Punishment in Islam

Cherif Bassiouni

Islam is at once a religion, a way of life, a code of individual and interpersonal conduct, and a framework for relations between the individual and the state. In short, it regulates in an integrated and comprehensive manner all human relations and endeavours, and relations between man and his Creator in this world and the next. The Islamic criminal justice system can only be understood in this context.

Islam when it was revealed in AD 622 caused a social revolution whose cornerstone was the establishment of the rule of law. In fact Islam also produced a legal revolution that profoundly affected the history of civilization.

Experience shows that law and legal institutions are affected by a variety of factors, such as the existence of suitable structures, qualified personnel and effective management. With respect to a given criminal justice system, additional factors affect its outcome, among which are: proper and effective law enforcement and amendments. These factors are, by their very nature, changing and fluctuating in time. They also depend upon other environmental factors, particularly cultural ones.

The Islamic criminal justice system has evolved during fourteen centuries throughout different regions of the world with diverse cultures. The dimensions of time, space and cultural diversity add to the complexities of a system whose depth and breadth are a real intellectual challenge. Given this diversity in time and space, this chapter is only a general introduction to the Islamic criminal justice system, and more particularly to that portion of it which deals with crime and punishment. The generalizations made herein reflect mostly a consensus view of the most authoritative scholars of the Sunni tradition, though at times they represent the author's view of the most acceptable common denominator.

THE SOURCES OF ISLAMIC CRIMINAL LAW
CRIME AND PUNISHMENT

Justice presupposes a number of basic principles such as the presumption of innocence, equality before the law, non-retroactivity of criminal law, individualization of punishment, and the conduct of legal proceedings in a lawful manner. Thus substantive justice and observance of proper procedures constitute the dual purpose of Islamic criminal justice.

The Qur'ān and *sunna* urge people over and over again to be just and to practise justice. The Qur'ān forbids persecution and threatens to punish anyone who contemplates using it. Reading it, we find that the word 'justice' and all its derivatives in that sense are mentioned more than 20 times. The word 'persecution' and its derivatives are mentioned about 300 times, the word 'aggression' is mentioned 8 times while the words 'attack' and 'violate' are mentioned 20 times.[1]

While there is no question that the Qur'ān is the principal source of law (the *shari'a*), there are differences among authoritative scholars and schools of thought as to the other sources of law. The differences are as to the given source's authoritativeness and ranking, as well as to the relevance and weight accorded to it.

The *sunna*, or sayings and deeds of the Prophet, are the second most authoritative source of law, but there are differences of interpretative approach to the *sunna*, as well as issues regarding the authenticity of some of the reported sayings and deeds of the Prophet, the interpretative relationship between the Qur'ān and the *sunna*, and the relationship between the *sunna* and other sources of law, among which is *ijma'* (consensus) which is recognized by the Qur'ān and the *sunna* as an authoritative source of law. Furthermore there is the question whether the spirit, purpose, philosophy or policy of a given provision in the Qur'ān can be relied upon to override other sources of law, a position sustained by Shī'ites and, in a qualified way, by Sunni proponents of *ijtihād* (progressive interpretation by analogy). These are only some observations about a subject known as *'ilm uṣūl al-fiqh*, or science of the methodology of law. The complexity of the subject is best illustrated by the great number of scholars, schools of thought and established authoritative doctrines which have been incorporated in authoritative jurisprudence over several centuries.

Islamic legal doctrine and jurisprudence are divided between Sunnis (approximately 85 per cent of all Muslims) and Shī'ites (approximately 15 per cent of all Muslims). The Sunnis have four major schools, which have

1. M. C. Bassiouni, 'Sources of Islamic Law and the Protection of Human Rights in the Islamic Criminal Justice System', in M. C. Bassiouni (ed.), 1982, pp. 1–19. See also M. Hamidullah, 1945; Nawaz, 1965, p. 325; Ahmad, 1956, p. 1.

spawned several sub-schools and reform movements that grew and developed between the third/ninth and the thirteenth/nineteenth centuries.

The four major Sunni schools which are relied upon in this chapter are the Shāfi'ī, the Mālikī, the Ḥanafī and the Ḥanbalī. It must be noted that these schools, let alone their sub-schools, differ in many ways as to the principles of criminal responsibility, the elements of particular crimes, the evidence required, the procedures to be followed and the types of penalties to be applied, as well as the manner in which they are to be carried out. While the distinctions may not be significant from a philosophical perspective, they are important to the practice and administration of criminal justice.

The following is a gradation of the sources of law applicable to criminal justice. It is based on the author's perception of the common denominator view of the four major Sunni schools of doctrine and jurisprudence. They are as follows:

- the Qur'ān (applicable to everything);
- the *sunna* (applicable to everything);
- enacted laws and treaty obligations (includes *ijmā'* as part of the legislative process and ratification of treaties);
- *ijmā'* (consensus, which applies essentially to legislation);
- jurisprudence of the courts, and doctrinal development;
- *qiyās* (judicial analogy, which applies to legislation, jurisprudence of the courts and doctrinal development);
- *istiḥsān* (approval), the replacement of certain rules based on precedent by other rules based on relevant legal reasoning; applicable to legislation, jurisprudence of the courts and doctrinal development;
- *istiṣlāḥ* (an unprecedented judgement not explicitly covered by the Qur'ān or the *sunna* and necessitated by the public interest; applicable to legislation, jurisprudence of the courts and doctrinal development);
- *'urf* (custom and usage), applicable to legislation, jurisprudence of the courts and doctrinal development;
- *ijtihād* (the use of personal reasoning, which is a process based on all other sources of law and can be relied upon in legislation, jurisprudence of the courts and doctrinal development).

CHARACTERISTICS OF THE PENAL PRESCRIPTIONS OF THE *SHARI'A*

These characteristics derive from the Qur'ān and the *sunna*, and can be summarized as follows:

- Everything that is not prohibited is licit.
- There is no uniformity in form and style of penal prescriptions: thus the range is from very broad to very specific statements.

- Precepts, prescriptions and even specific prohibitions are frequently based on actual events and not hypothetical suppositions (thus strengthening the possibility of interpretation by analogy).
- The wording of prohibitions and admonitions allows a policy-oriented interpretation and application (based on sound policy reasons and social and public necessity, deriving from the philosophy of the *shari'a*).
- The use of unequivocal language in specific prohibitions is frequently tempered by other provisions allowing legal excuse or justification and judicial discretion.
- The imposition of requirements regarding evidence (designed to restrict judicial discretion, and to make the finding of guilt and imposition of sanctions more difficult with respect to certain crimes) tempers the apparent harshness of the penalties.
- The establishment of procedural safeguards (designed to protect the individual from abuse by others, and from abuses of power by the authorities and the judge) protects individual rights.
- Prescriptions on criminal justice are not concentrated in any one part of the Qur'ān or the *sunna* (they are interspersed among a variety of other subjects thoughout the Qur'ān and the *sunna*).
- Matters relating to criminal justice (crime, penalties, evidence, procedures, etc.) are referred to contextually as part of other matters (thus highlighting the social and moral aspects of criminal justice).
- Codification and legislation are permissible in all three categories of crimes, with discretionary latitude in the case of crimes that are susceptible of 'discretionary punishment' (*ta'zīr*).
- Penalties for each category of crimes differ (thus evidencing a different philosophy and policy of punishment).
- Penalties are essentially in order to deter, though the emphasis is on correction, particularly in *ta'zīr* crimes, with a strong tendency towards compensatory, non-penal sanctions in *qiṣāṣ* crimes.

The Islamic penal system must be understood and interpreted in the light of the above characteristics (which are not exhaustive) of the *shari'a*'s penal prescriptions.[2] But these characteristics are dependent on the choice of applicable sources of law (stated above), their ranking and interrelationship, and are subject to the rules of interpretation most widely recognized as *uṣūl al-fiqh*.[3]

2. See Ṣ. al-Maḥmaṣānī, 1980.
3. See M. S. al-Ghazālī, 1904; al-Sarakhsī, 1906–1912; al-Kāshānī, 1909–1910; al-'Amidī, 1961.

PRINCIPLES OF LEGALITY[4]

In Islamic law only that which is prohibited is not permitted. The *shari'a* and other laws made pursuant thereto constitute the dividing-line between that which is prohibited and that which is not. Thus there can be no crime without a specific legal provision in the *shari'a*, and other laws made pursuant thereto, and there can be no punishment without law. It follows that a person is presumed innocent until proven guilty according to the requirements of the law. Furthermore, since no person can be held criminally accountable for conduct that is not specifically prohibited by law, he cannot be so held for conduct preceding its criminalization. Thus criminal law cannot be retroactive.

The principles of legality are therefore:

- presumption of innocence;
- non-retroactivity of criminal law, no crime without law, no punishment without law;
- equality before the law and equal application of the law.

Presumption of innocence

This principle applies equally to criminal legislation and to its application. The Prophet said: 'Avoid using circumstantial evidence in *hudūd*,' which are the most serious of all crimes since they are specified in the Qur'ān. 'Ā'isha, the wife of the Prophet, when referring to this *hadīth*, reported that Prophet also stated: 'Avoid condemning the Muslim to *hudud* whenever you can, and when you can find a way out for the Muslim then release him for it. If the imam errs it is better that he errs in favour of innocence (pardon) than in favour of guilt (punishment).'

It is also a well-established principle in *qiṣāṣ* crimes (discussed below) that circumstantial evidence favourable to the accused is to be relied upon, while if unfavourable to him it is to be disregarded.

The presumption of innocence applies to the lesser *ta'zīr* offences[5] as well. In his 'Final Pilgrimage' *hadīth*, the Prophet said: 'Your lives, your property, and your honour are a burden upon you until you meet your Lord on the Day of Resurrection.'

This passage is interpreted to mean that the duty to protect life, property and honour cannot be abrogated without positive proof of a crime.

The Prophet in an earlier *hadīth* stated: 'Had men been believed only according to their allegations, some persons would have claimed blood and

4. Al-'Awwa, 1982, p. 5, n. 1, p. 128; Kamel, 1982, p. 149.
5. See below.

properties belonging to others, but the accuser is bound to present positive proof.'

It has therefore become a basic rule in Islamic criminal law that the burden of proof is on the proponent, and the oath is incumbent on the one who denies.[6] Some scholarly interpretations of this principle place the accused (who cannot be falsely accused lest his accuser incur criminal responsibility) in the condition of 'collateral innocence'.[7]

Non-retroactivity: no crime without law, no punishment without law

The principles that punishment shall be applied only by virtue of law and that no law shall be applied retroactively are each considered a 'basic principle', or *qā'ida uṣūlīyya*, which finds express support in the Qur'ān, where it is stated: 'nor would We /Visit with Our Wrath /Until We had sent /An apostle (to give warning)' (XVII. 15).

This verse means that the accused must first be given the opportunity to know the law, and thus no punishment can be imposed without prior law. Similarly it is stated: 'Nor was thy Lord the one /To destroy a population until /He had sent to its Centre /An apostle, rehearsing to them /Our Signs' (XXVIII. 59).

The Qur'ān also states: '(We have sent) . . . Apostles who gave good news /As well as warning /That mankind, after (the coming) /Of the Apostles should have /No pleas against God' (IV. 165); 'And this Qur'ān has been inspired in me, that I may warn you therewith and whomsoever it may reach' (IV. 19); 'God forgives what is past' (V. 98).

Seldom does one find more unequivocal texts in the Qur'ān confirming the principles of prior notice and non-retroactivity so emphatically. Thus no Islamic tribunal or judge may apply a law to a person who at the time of the alleged offence was not subject to that law. There is also the specific application of this principle in the Qur'ān in connection with marriage. Men are prohibited from marrying certain women such as their mothers and sisters, and also from marrying two sisters at the same time. But since in pagan pre-Islamic days marrying two sisters was permitted, the Qur'ān held that this prohibition would not be retroactive, and it states: 'Except for what is past; for God is Oft-forgiving, /Most Merciful' (IV. 23).

Non-retroactivity was also the subject of the Prophet's 'Final Pilgrimage' *ḥadīth*, in which he said: 'There is prescription for blood crimes spilled (committed) in the days of ignorance (before Islam was revealed) . . .'

6. See al-Bayhaqī, 1925–1936, X, p. 253. For the application of the principle, see al-Ḥamawī, 1975.
7. O. A. M. al-Saleh, 1982, pp. 55, 66 and n. 1.

The Prophet thereby affirmed the non-retroactivity of laws applicable to crimes and punishment before the promulgation of Islamic law.

Equality before the law

The Qur'ān is specific about the equality of all persons before the law:

> O mankind! reverence /Your Guardian-Lord, /Who created you /From a single Person, /Created, of like nature /His mate, and from them twain /Scattered (like seeds) /Countless men and women; –/Reverence God, through Whom /Ye demand your mutual (rights) (IV. 1); O mankind! We created /You from a single (pair) /Of a male and a female, /And made you into /Nations and tribes, that /Ye may know each other /Not that ye may despise (each other). Verily /The most honoured of you /In the sight of God /Is (he who is) the most /Righteous of you (XLIX. 13).

Thus crimes and punishment must apply equally. This also extends to criminal proceedings. The principle is not, however, deemed to be violated with respect to the individualization of penalties, particularly *ta'zīr* offences where the theory of correction and rehabilitation applies. The principle of equality, however, guarantees that the judge will not abuse his discretionary powers. It is a form of control over the disparity of sentences and abuse of power. While that principle appears more procedural in nature, it is also substantive because it precludes legislation which could be unequal in its purposes, scope and application, subject to those legitimate distinctions made pursuant to the legally valid need to preserve Islam, the integrity of the state, the rights of individuals in society, and the protection of the public interest and welfare under the rule of law.

The Prophet also stated: 'O mankind! You worship the same God, you have the same father. The Arab is not more worthy than the Persian and the red is not more deserving than the black except in godliness.'

The principle of equality was also manifestly recognized when the Prophet stated that if his own daughter, Fāṭima, committed a theft, her kinship to him would not save her from the *ḥadd* penalty. Similarly, when a number of persons slandered the Prophet's wife, 'Ā'isha, he decided that the *ḥadd* penalty for such slander would apply to them.[8] These examples show that closeness or distance from the Prophet does not affect the equality of treatment of individuals.

8. Ibn Hishām, 1955, II, pp. 302ff.

PRINCIPLES OF CRIMINAL RESPONSIBILITY[9]

Criminal responsibility in Islam is primarily personal and individual, though derivative responsibility (or responsibility for the conduct of others and things under one's control) has also developed throughout the history of Islamic jurisprudence and doctrine.

The Qur'ān contains a number of specific references to the notion of direct, personal and individual responsibility: 'That man can have nothing /But what he strives for' (LIII. 39); 'Whoever works righteousness /Benefits his own soul; /Whoever works evil, it is /Against his own soul' (XLI. 46); 'Every soul draws the meed /Of its acts on none /But itself' (VI. 164).[10]

The Prophet in a *ḥadīth* stated: 'A soul is not held responsible for acts committed by his father or by his brother' (Abū Dāwūd, *diyāt*, 2).

The various schools of jurisprudence and doctrine have, since the days of the Prophet, expounded on the principles of criminal responsibility.[11] The consensus is that criminal responsibility is individual,[12] non-transferable and based on the conscious intentional conduct of a person possessing his mental faculties who was not acting under extenuating circumstances such as intoxication, drugs, coercion or necessity (self-defence being a justifying condition). The first of the two extenuating factors, namely intoxication and drugs, will however themselves be punishable as crimes, but crimes committed under their effect will not be.

A person may also be responsible for the conduct of another when he has a pre-existing legal duty such as to oversee children. Similarly, a person is responsible for animals, and things under his control, particularly if these have a potential for danger. The basic principle concerns the rights of others. This concept of the balancing of rights is recurrent throughout the *sharī'a* and applies to a variety of non-penal matters. Indeed it is this very concept which gave rise to the notion of *ḥisba*, a market-control system which in modern times would be equated to consumer protection.

Responsibility by omission also exists when there is a legal duty requiring a person to engage in certain conduct, or to prevent a particular occurrence, and there is a conscious disregard of this duty. It must be noted that scholars who differ as to the requirement of intent (for example, whether un-

9. See A. 'Awda, 1968: Vol. I covers the general aspects of criminal responsibility and Vol. II the specific crimes of *ḥudūd*, *qiṣāṣ* and *ta'zīr*; Abū Zahra, n.d. (*c.* 1950); M. C. Bassiouni, *op. cit.*, n. 1.

10. See also XXXV. 18 and IV. 123.

11. See A. F. Bahnasī, 1982, p. 171, n. 1; *idem*, 1961.

12. There were a number of schools that argued that there is no free will and therefore no criminal responsibility on earth, but only in the hereafter. Among these were the al-Jabrīs (fatalists) and the Mu'tazilites. See Ibn Ḥazm, 1899–1903, II; al-Baghdādī, 1975.

intentional negligent behaviour can be the basis of criminal responsibility) also differ as to intentional and negligent omission as the basis of criminal responsibility. Similarly, these debates extend to responsibility for the conduct of another (when a person aids another or facilitates matters for another in the commission of a crime). Another area of great debate is that of causation, namely to what extent a person is responsible for the consequences of his acts, and of course those of other people for whom he may be responsible.

These debates exist in every legal system in history, and most of the theories that have evolved in Islamic legal history are within the purview of the *shari'a*, which in this respect allows the flexibility needed for the legislative and judicial processes to develop the appropriate legal-social policy for the time and place of its application.[13]

THE THREE CATEGORIES OF CRIMES IN THE *SHARI'A*

There are three categories of crimes in the *shari'a*: *ḥudūd*, *qiṣāṣ* and *ta'zīr*.

Ḥudūd crimes are punishable by *ḥadd*, which means that the penalty for such crimes is established in accordance with 'God's rights'. The crimes are prescribed by the Qur'ān, though for some the penalty is prescribed by the *sunna*. Prosecution and punishment for such crimes are mandatory under the *sunna*.

The seven *ḥudūd* crimes are: adultery, defamation (also referred to as slander), alcoholism (drinking alcoholic beverages), theft, brigandage (also referred to as highway robbery), apostasy and corruption of Islam (also referred to as transgression of Islam) or certain forms of rebellion.

Qiṣāṣ crimes, the second category, are not given a specific and mandatory definition or penalty in the Qur'ān, though it refers to them as 'blood' crimes (which refers to homicide and other physical injuries). What constitutes such crimes has evolved instead through legal doctrine and jurisprudence. These crimes do, however, derive from the Qur'ān. They are in contemporary legal terminology: murder, voluntary homicide, involuntary homicide, intentional crimes against the person, and unintentional crimes against the person. The latter two categories are equivalent to the crimes of assault and battery, mayhem and other infringements of the person's bodily integrity that do not result in death. Prosecution is discretionary with the aggrieved party. The penalty for these offences is retaliation or compensation (*diya*) at the option of the

13. For the above issue see Abū Zahra, *op. cit.*; A. 'Awda, *op. cit.*, p. 14, n. 2; al-Māwardī, 1973; al-Ghazālī, *op. cit.*; al-Sarakhsī, *op. cit.*; al-Kāshānī, *op. cit.*; Ibn Qudāma, 1922–1930, who reflects the views of al-Shāfi'ī, Abū Ḥanīfa and Ibn Ḥanbal; Ibn Saḥnūn's version of Mālik, 1906–1907, especially XI; Ibn Ḥazm, 1927–1932, II.

aggrieved party, who can also forgive the transgressor, which is deemed preferable by the Qur'ān.

Ta'zīr offences are those that are not encompassed by either of the above two categories. It is conduct that results in tangible or intangible individual or social harm and for which the penalty is corrective (which is the meaning of *ta'zīr*). Such a penalty could be imprisonment, the infliction of corporal punishment, deprivation of liberty, the payment of compensation, the imposition of a fine, or even simple admonishment in accordance with the principle of rehabilitation. The penal action and penalty for these crimes are discretionary and are based on: the social and public interest in prosecuting such cases, the rehabilitation of the offender, and meeting the claims of the aggrieved party.

The purposes and philosophy of punishment in these three categories of crimes reflect their distinguishable characteristics. *Ḥudūd* crimes are those deemed serious infractions of the social order, and as such require a stern mandatory penalty which represents a policy of retribution and deterrence. *Qiṣāṣ* crimes are deemed interpersonal violations in which the satisfaction of the victim is secured through the retaliation alternative, which is retributive in kind; but there is also a compensatory alternative which allows the aggrieved party to obtain compensation (*diya*). The Qur'ān does also allow, indeed encourages, the aggrieved party to forgive and forget both punishment and compensation. *Ta'zīr* crimes are a discretionary category of crimes left for future legislation subject to a discretionary penalty intended to be corrective or rehabilitative.

Ḥudūd crimes[14]

DEFINITION AND GENERAL CONSIDERATIONS

The word *ḥadd* means 'limit'. Because *ḥudūd* crimes are mentioned in the Qur'ān, they are considered the 'limits of God'. The notion of *ḥudūd* as transgressions of the limits of God derives from a verse in the Qur'ān which says: 'These are the limits /Ordained by God; /So do not transgress them' (II. 229; LXV. 1).

The penalty for some of these crimes is stated in the Qur'ān, while for others it has been developed by the *sunna*. Also for some of these crimes the Qur'ān provides for specific evidentiary requirements such as the number of witnesses, the admissibility of a confession, etc. (see also 'Evidentiary Requirements' below). With respect to some of the crimes, certain procedural matters are also stated in the *shari'a*. But since *ḥudūd* crimes go back to the days of the

14. See A. Manṣūr, 1982, p. 5, n. 1, p. 195; A. 'Awda, *op. cit.*, p. 14, n. 2; Abū Zahra, *op. cit.*, p. 14, n. 2.

Prophet, the *sunna* has provided a wide basis for analysis and application. Because these crimes are deemed to be against God, as well as His established legal and social order, in addition to being a transgression of individual rights, the penal action and the penalty are mandatory, though in some cases such as slander (*qadhf*) action is at the discretion of the aggrieved party, and in cases of theft (*sariqa*) the victim may forgive and extinguish the action. Punishment is retributive and harsh in order to serve as an effective general deterrent.

There is probably no subject that evokes greater controversy outside the Muslim world, and even within the Muslim world, than *ḥudūd* crimes and their penalties. While no one argues with the validity of including the seven *ḥudūd* crimes among those deemed the most serious threats to and violations of the public and social order, questions invariably arise with respect to their penalties. The penalty in these crimes is either death or corporal punishment. The death penalty may be by means of stoning to death, as in the case of adultery committed by a person who is or has been married. Corporal punishment may take the form of severing the hand of the thief or of whipping or lashing for such violations as drinking alcohol. It must be noted that in addition to the principal prescribed penalties for each crime, and its various categories, there are secondary penalties, such as, in some cases, the prohibition of inheritance and of being a witness. In contemporary social values these penalties are deemed harsh, if not cruel and unusual, and questions are frequently raised about them. There is therefore a debate which must be faced, namely: whether or not the provisions or the Qur'ān with respect to these *ḥudūd* offences can be interpreted in less than a literal manner or in a way that fulfils the spirit of the *shari'a* as opposed to its earlier literal interpretations. If such an interpretation were given to the provisions of the Qur'ān then a different outcome would be achieved. In that case, however, it would require a reconsideration of some of the *sunna* as being unequivocally binding in its letter as opposed to being merely binding in its spirit. Alternatively the *sunna* could be expanded by analogy (*qiyās*) or even through other methods of *ijtihad*. For example, one interpretation of the penalty for the crime of theft would be to add the requirement that the ideal Islamic society must exist first before the penalty could be carried out. The precedent for that exists. Under the reign of 'Umar Ibn al-Khaṭṭāb, the second caliph of Islam, for example, there was widespread famine in the Ḥijāz. 'Umar suspended the application of the *ḥadd* penalty for theft, arguing that in a famine situation there could be no satisfaction of the ideal conditions of peace and prosperity in the Islamic society that would justify the application of the *ḥadd*. Curiously enough, contemporary orthodox interpreters of the *shari'a* seem to have overlooked this otherwise fundamental and orthodox interpretation by 'Umar, whose practices – as well as those of the other three Orthodox Caliphs – are certainly part of the sources of Islamic law followed by the proponents of Islamic orthodoxy. Another interpretation could be that the notion of the severance of a hand would be a

means of incapacitating the person and preventing that same hand from doing the same act again. That could be accomplished by other means than the actual physical cutting off of the hand. Another question could be raised with respect to the stoning to death of an adulterer. In one way, reliance could be made on the cases that arose in the days of the Prophet where it was abundantly clear that he tried by every possible means not to have the person found guilty and for the penalty not to be carried out by making demands calculated to render the proof of the crime more difficult. That is a clear indication of the Prophet's spirit in the application of this penalty. The penalty of stoning to death was instituted by the Prophet and is not mentioned in the Qur'ān; but in the earlier days of Islam the punishment was not stoning to death, which came later (though still in the Prophet's lifetime). The question could therefore arise whether the *sunna* could not be interpreted in the light of earlier practices and other sayings of the Prophet, as well as the spirit of his sayings. This type of interpretation, while it might be considered almost heretical by certain more orthodox Islamic scholars, would in some respects find support in the approaches of some of the jurisconsults,[15] and sometimes in Shī'ite interpretations of the *shari'a* which allow an examination of the *bāṭin*, i.e. the hidden meaning or the philosophy that supports a particular provision of the Qur'ān. All these interpretations could come under the heading of *ijtihād*, but they would be opposed by orthodox jurists.

There is diversity in doctrine and jurisprudence as to the definition of the seven *ḥudūd* crimes, their required elements, exonerating conditions, justification and evidentiary requirements, and the different penalties applicable to the various distinctions and categories of each of these seven crimes. Thus the question arises as to why these divergences must be taken as read and exclude further consideration under an enlightened *ijtihād*, which would achieve the sound, reasonable, just and merciful philosophy of Islam. In any event these are among the contemporary debates that exist on the subject.

THE SEVEN *HUDŪD* CRIMES

Apostasy (ridda)

The crime of apostasy is a rejection of Islam by word and deed. It is a turning against Islam, first by denying the existence of God and then by acting in a way contrary to Islam. The Qur'ān states: 'And if any of you /Turn back

15. This is true with respect to the technique used by al-Shāfi'ī in some of his legal constructions (when not confronted with specific provisions in the *sunna*) and by some of his later followers; the same is true of some Ḥanafī doctrines, and of those of al-Qāḍī Abū Yūsuf in later days. Surely if orthodox references can rely on this technique for more repressive interpretations, then more liberal ones can follow the same approach and produce a different result.

from their faith /And die in unbelief, /Their works will bear no fruit /In this life /And in the Hereafter. /They will be /Companions of the Fire /And will abide therein' (II. 217).

The text quoted above is not, in the judgement of this author, so conclusive as to warrant the traditional interpretation and application given to it. In the first place, it does not specify the penalty to be imposed during the apostate's lifetime, and does not mention the death penalty. In addition there is a question as to its applicability, since the permanence of the apostasy according to the above-quoted verse is only established on the death of the individual. Thus the individual has the opportunity to repent until such time as he dies. This is why some jurists have stated that before a person is found guilty of that crime, a certain amount of time must be given to him to repent. Some have established a period of three days, others seven days. In that case why not longer? Or for that matter, why place a limit on divine providence and mercy? If an apostate has until death, why not let God decide on his time, and allow the apostate the time to repent? The Qur'ān is replete with verses about repentance and divine forgiveness, one of the attributes of God.

The notion of apostasy or unbelief by the individual is more a personal relationship between the individual and his Creator. Through his continued life the apostate would have many opportunities to repent. Thus the early termination of a person's life without such an opportunity occurring may well be contrary to the spirit of the Qur'ān, which is to allow man to be free to commit sins and then repent and be forgiven as the fulfilment of the Creator's mercy.

It is interesting to note that a *ḥadīth* relates that a man accused of apostasy was brought before the Prophet. The Prophet asked about the circumstances and was told that the man (who had suffered the loss of a loved one) was throwing his spear into the sky, saying that he intended to kill God because he did not want God to continue to live after He had taken his beloved. That was considered as a form of apostasy by those who brought the man to the Prophet. To which the Prophet is said to have replied: 'Is it not enough for you that he believes in the existence of a God?' While some recorders of the Prophet's *sunna* have reported the same incident in different ways and therefore given it a different weight, it is none the less clear that the intentions of the Prophet were more liberal than others have interpreted them. Jurists differ as to the definition of apostasy, its elements and proof. In general it requires words and deeds, such as an open and flagrant return to idolatry. The question thus arises whether a converted Muslim who reverts back to Christianity or Judaism would be regarded as an apostate. The answer in this author's opinion is no, because it is a return to a religion of the Book, which has a special place in Islam. A person who recants his apostasy may be punished by *ta'zīr*. The same applies to those who do not fulfil all the conditions of the *ḥadd* of apostasy.

Transgression (baghy)

There is disagreement between jurists on the definition of this crime and its elements: but as a general rule it is regarded as the equivalent of a reasonable uprising against the legitimate ruler (caliph or imam) by the use of force. The Qur'ān states:

> If two parties among /The Believers fall into /A quarrel, make ye peace /Between them: but if /One of them transgresses /Beyond bounds against the other, /Then fight ye (all) against /The one that transgresses /Until it complies with /The command of God; /But if it complies, then /Make peace between them /With justice, and be fair: /For God loves those /Who are fair (and just) (XLIX. 9).

Another verse states: 'The punishment of those /Who wage war against God /And His Apostle and strive /With might and main /For mischief through the land /Is execution, or crucifixion, /Or the cutting off of hands /And feet from opposite sides, /Or exile from the land' (V. 33).

This provision of the Qur'ān is said to apply to this crime as well as to the crime of brigandage (*ḥirāba*);[16] but it does not state what the elements of the crime are.

Because of the essentially political nature of that crime, there is much doctrine concerning the manner in which the uprising takes place and the manner in which the imam or caliph overcomes it. It is interesting to note here that a distinction is drawn between those combatants who continue to fight and those who surrender. For the latter, instead of the *ḥadd* penalty, a *ta'zīr* penalty[17] would be the punishment, and that would depend upon the way they abandoned their previous erring ways and pledged their allegiance to the caliph or imam.

With regard to this crime, if the caliph or imam deviates from Islam there is a right to rebel against him and depose him. In such a case, there can be no crime of transgression (*baghy*). Similarly, if the caliph or imam has not deviated from Islam but the justifiable claims of those who rose up against him remain without satisfaction, and the uprising is terminated upon satisfaction of their claims, then the *ḥadd* penalty does not apply. What is noteworthy in this case is that while the doctrine discusses what is a deviation from Islam by the caliph or imam, and what constitute just claims that may as a last resort justify a limited uprising, there is of course no one to judge the merits of either of these contentions except the parties themselves and their ultimate victory against one another.

16. See below.
17. See below.

Theft (sariqa)

The Qur'ān states: 'As to the thief, /Male or female, /Cut off his or her hands, /A punishment by way /Of example, from God /For their crime' (V. 38).

The text of the Qur'ān is quite explicit that the crime of theft is punishable by cutting off the hand. This is intended to be a deterrent for others. The requirement for such a punishment is predicated on the fact that whoever commits the crime of theft does so with the specific intent permanently to deprive another of his property without the consent of the true owner thereof. The property must further be taken and carried away and kept or used in such a manner that it clearly indicates the specific intent of the taker. Some jurisconsults require that the taking be by virtue of breaking into a house or a safe place or a container to remove the object. The property also must be of some value, or *niṣāb*.[18]

The requirements of such elements as outlined above clearly indicate how technical the interpretation of that crime is, and that the intent is to create a strong deterrent while making the crime quite difficult to prove. Various property crimes such as fraud and embezzlement do not qualify as *ḥadd* thefts. Furthermore a number of other excuses, justifications and defences will obviate the application of the *ḥadd*. Some jurisconsults hold that the penal action is extinguished with the aggrieved party's consent or forgiveness. If these elements are not satisfied then the penalty is *ta'zīr*.

In the opinion of this writer there is also a precondition, namely the existence of the ideal Islamic state in which no one is in want, that is, in a state of poverty.[19]

Brigandage or highway robbery (ḥirabā)

This crime is theft (*sariqa*) aggravated by the use of force, lying in wait and attacking travellers.

The Qur'ān refers to it as follows: 'The punishment of those /Who wage war against God /And His Apostle and strive /With might and main /For

18. In a *ḥadith* the Prophet stated: 'The hand of the thief should only be cut off if the value of the property stolen is worth the price of *mijan*.' Authors differ as to the interpretation of the value of *mijan* and the monetary value that is attributed to it. Some say it is the equivalent of one-quarter of a golden dinar, others of 3 silver dirhams.
19. An example occurred in the reign of 'Umar Ibn al-Khaṭṭāb, the second caliph, when in one year there was a famine: 'Umar suspended the application of the *ḥadd* for the crime of theft, since economic and social conditions were not such as to permit the existence of the true ideal Islamic society and therefore the application of the penalty provided for under such conditions.

mischief through the land /Is execution, or crucifixion, /Or the cutting off of hands /And feet from opposite sides /Or exile from the land' (V. 33).

The above-stated provision of the Qur'ān is said to apply to this crime as well as to the crime of transgression (*bagby*) but it does not specify the elements of that crime. Jurists disagree on this point and also as to the nature of the applicable penalties. Since there are different categories of brigandage, then obviously different penalties should be applicable. The Qur'ān states various penalties that may be applicable, and the question is whether or not these penalties are applicable indifferently to all the various types of brigandage, or whether brigandage should be broken down into specific types of acts for which (depending upon their seriousness) one of the penalties stated in the Qur'ān would be applicable. Jurists disagree on this question, and on the types of penalties for the different means of committing this crime.

Essentially, this crime can be regarded as in the nature of an armed robbery. Early authors have referred to it as a form of highway robbery or theft with the use of force, or theft accompanied by the killing of the victim or a threat to his life. It must, however, be noted that the initial paragraphs of the applicable provisions in the Qur'ān refer to 'those who wage war against God and His Apostle'. That indicates, at least to this author, that it is not enough to consider the act of theft by use of force or robbery or armed robbery, but that one must also look at the added dimension signified by the expression 'wage war'. That implies that the individual engaging in the violation is not acting by himself, but, for example, in a collective criminal activity with others which constitutes a threat not only to the individual victim's safety and property but also to the established legal order (i.e. the order established by God).

Traditionally, however, jurists have divided acts of brigandage into four categories: first, the victim is confronted by a would-be highwayman or robber, but is neither robbed or harmed; second, the victim is confronted by force, and property is taken away from him by force; third, the victim is killed in the context of an attempted robbery, but no property is taken; and fourth, the victim is killed in connection with a robbery and property is taken. This type of classification is also used by various scholars to apply the different penalties specified in the passage from the Qur'ān quoted above. They include death and exile, the latter having been interpreted as including imprisonment.

Adultery and fornication (zīna)

These are in fact two different crimes, though the nature of the act is similar. The distinction between the two lies essentially in the legal status of the participants in the relationship, namely whether they are married to another person or not. The married participant is punished by stoning to

death, while the unmarried person is to be flogged with 100 lashes. The former penalty is not, however, specified in the Qur'ān, while the second is (XXIV. 2). The stoning of the married participant in the act of adultery is based on a *ḥadīth* of the Prophet and on his practice, as is the flogging. The *ḥadīth* states: 'Take from me as for fornication. Flog both of them with 100 stripes and keep them away from Muslim society for a year. As for a woman and a man guilty of adultery, flog them with 100 stripes and stone them.' (Muslim, *ḥudūd*, 12–14; Abū Dāwūd, *ḥudūd*, 23; al-Dārimī, *ḥudūd*, 19; Ibn Ḥanbal, III, 476; IV, 313).

The Qur'ān states: 'The woman and the man /Guilty of adultery or fornication, – /Flog each of them /With a hundred stripes: /Let not compassion move you /In their case, in a matter /Prescribed by God, if ye believe /In God and the Last Day: /And let a party /Of the Believers /Witness their punishment' (XXIV. 2).

In the early days of the Prophet the penalty for *zīna* in some cases was exile. Stoning came later.

The act of adultery must entail an intentional and actual physical penetration of the male organ into the female organ. It cannot be anything less than that. There are also other conditions that the guilty party must meet: he must be free, adult (or physically capable), of sound mind, a Muslim; and not subject to a legal disqualification. The Arabic term *ma'sūm* has been interpreted as denoting a person fulfilling all these conditions.

As a prerequisite for a finding of guilty there must be four eyewitnesses to that fact. A substitute for the four eyewitnesses is the confession of the adulterer. The adulterer must be able to give full details, and they must be corroborated by the facts. Because four eyewitnesses are required, the adulterer must repeat the confession four times. The various schools of thought differ as to whether the confession must be repeated four times at the same hearing or at four different hearings. The adulterer must perform the confession openly and publicly, and the judge must ascertain that it is made without coercion of any sort. The confession may be recanted at any time even during the execution of the sentence itself. If there is any doubt about the confession or about the testimony of the four eyewitnesses, then the person cannot be found guilty.

During the lifetime of the Prophet there was one instance in which a man and a woman were found guilty of adultery and were in fact stoned to death. It is noteworthy that the Prophet spoke on that subject in two important instances. The first was a case in which the individual who had been ordered to be stoned to death on the strength of his confession, corroborated by the facts, recanted the confession while being stoned to death and sought to have the stoning stopped. When this was reported to the Prophet after the penalty had been carried out, the Prophet reportedly answered: 'I would rather you had stopped.' The message here is essentially that the Prophet,

recognizing the possibility of recantation, would have taken that as grounds for no longer applying the *ḥadd*.

In the other case, in which a woman came to the Prophet to confess, he refused to accept her confession on the grounds that she was perhaps not in the best of psychological conditions to make it. When she insisted, and indicated that she was pregnant, the Prophet had no recourse but to accept that statement as supporting her confession and thereby proving the commission of a crime. But the Prophet did not find her guilty nor carry out the sentence, on the grounds that in so doing he would also be killing the innocent unborn baby. He remanded the woman until such time as she had given birth: thereafter, if she wanted to confess again, he would hear her confession. The woman returned after giving birth and confessed once more. The Prophet then found another reason not to accept the confession, and remanded the woman to feed her baby until such time as it no longer needed her. The woman returned thereafter and reaffirmed her confession, wanting the penalty to be executed so that she would have settled her duty to God. The Prophet then reluctantly ordered the penalty to be carried out.

Both of these instances clearly indicate that the purpose of the penalty is deterrence and that its general deterrent effect is tempered by the difficulty in proving the commission of the crime. For all other acts of sexual intercourse or similar sexual acts, or incompleted sexual intercourse, or absence of any of the elements required for the *ḥadd* of *zina*, the penalty is flogging. The number of lashes varies, according to the jurists, with the type of act and the status of the transgressor.

Slander (qadhf)

The penalty for the crime of *qadhf* is predicated on a verse of the Qur'ān which states: 'And those who launch /A charge against chaste women, /And produce not four witnesses /(To support their allegations), /– Flog them with eighty stripes; /And reject their evidence /Ever after: for such men /Are wicked transgressors' (XXIV. 4).

The punishment of *qadhf* is one of the guarantees against false accusations of adultery, which is a *ḥadd* crime punishable by death for the married person and 100 lashes for the unmarried person. Thus since 4 witnesses are required to prove adultery, the counterpart is to have the same penalty for possible false accusations. The crime of slander is limited to false accusations of adultery, fornication or sexual abnormality or the defamation of the chastity or good moral character of a Muslim woman, whether married or unmarried. Among the requirements for the application of this *ḥadd* is that the transgressor be *ma'sum* (free, adult, of sound mind, Muslim, and not subject to any legal disqualification). In addition, the act must be intentional. Jurists differ as to whether *qadhf* must be public. Its proof is by two witnesses, or a corrobor-

ated confession. The penalty is flogging, and the inadmissibility thereafter of such a person's testimony in any form. The right to bring action in this case lies with the aggrieved party.

Use of alcohol

This is mentioned in an early provision in the Qur'ān, which simply states: 'They ask thee /Concerning wine and gambling. /Say: In them is great sin, /And some profit for men; /But the sin is greater /Than the profit' (II. 219).

It is interesting to note here that in addition to 'wine', which is interpreted as meaning any alcohol, there is also a prohibition against gambling: the jurists have not treated this as *ḥadd* like the use of alcohol, which is an anomaly. A Qur'ānic provision revealed later states: 'O ye who believe! /Approach not prayers /With a mind befogged /Until ye can understand /All that ye say' (IV. 43).

The explicit prohibition of alcoholic beverages came in a later verse of the Qur'ān:

> O ye who believe! /Intoxicants and gambling, /(Dedication of) stones, And (devination) by arrows, /Are an abomination, – /Of Satan's handiwork: /Eschew such (abomination), /That ye may prosper. /Satan's plan is (but) /To excite enmity and hatred /Between you, with intoxicants /And gambling, and hinder you /From the remembrance /Of God, and from prayer: /Will ye not then abstain? (V. 90–91).

Subsequently a *ḥadīth* of the Prophet stated: 'He who drinks wine, whip him.'

Thus it was established that drinking alcohol constitutes a crime for which the penalty is flogging: scholars vary on the number of lashes to be meted out.

What is particularly notable here is that reliance on the provisions of the Qur'ān could have led the jurists to consider gambling as equivalent to drinking. But they have differed as to their treatment of the two because of the *ḥadīth* which specified the penalty for drinking, while no similar *ḥadīth* exists with regard to gambling.

It should also be noted that there has been, and continues to be, debate about the prohibition of alcohol. The revelations came in three stages, and it is argued that this was because drinking alcohol was quite common in pre-Islamic times. The policy apparently was first to admonish against the abuse of alcohol, then to admonish against approaching prayers while under its influence, and finally to prohibit the use of alcohol altogether.

Qiṣāṣ crimes[20]

BASIC PRINCIPLES

The word *qiṣāṣ* means 'equality' or 'equivalence'. It implies that a person who has committed a given violation will be punished in the same way and by the same means that he used in harming another person. Many Western writers refer to *qiṣāṣ* as retaliation; this connotes more vindictiveness or revenge than the redress of a wrong by equalizing the harm.

There are five *qiṣāṣ* crimes: murder; voluntary killing (similar to intentional killing or voluntary manslaughter); involuntary killing; intentional physical injury or maiming; and unintentional physical injury or maiming.

These crimes are defined in both the Qur'ān and the *sunna*, and both sources establish two types of punishment: retaliation or *diya* (compensation).

> O ye who believe! /The law of equality /Is prescribed to you /In cases of murder: /The free for the free, /The slave for the slave, /The woman for the woman. /But if any remission /Is made by the brother /Of the slain, then grant /Any reasonable demand, /And compensate him /With handsome gratitude. /This is a concession /And a Mercy /From your Lord. /After this whoever /Exceeds the limits /Shall be in grave penalty /In the Law of Equality /There is (saving of) Life /To you. O ye men of understanding; /That ye may /Restrain yourselves (II. 178–9).
>
> We ordained therein for them: /'Life for life, eye for eye, /Nose for nose, ear for ear, /Tooth for tooth, and wounds /Equal for equal.' But if /Any one remits the retaliation /By way of charity, it is /An act of atonement for himself. /And if any fail to judge /By (the light of) what God /Hath revealed, they are /(No better than) Unbelievers (V. 45).
>
> And if /Anyone is slain wrongfully, /We have given his heir /Authority (to demand Qiṣāṣ /Or to forgive): but let him /Not exceed bounds in the matter /Of taking life; for he /Is helped (by the Law) (XVII. 33).

TYPES OF *QISAṢ* CRIMES AND THEIR PENALTIES

For practical purposes crimes of *qiṣāṣ* fall into two categories, homicide and assault and battery. Both intentional and unintentional homicide are included but the punishments are different. The term 'killing' includes unjustifiable and inexcusable homicides in which there is an element either of intention or of recklessness.

20. Adapted from M. C. Bassiouni, 'Qesas Crimes' in M. C. Bassiouni (ed.), 1982, p. 5, n. 1, pp. 203ff. See also Abū Zahra, *op. cit.*, p. 14, n. 2; A. 'Awda, *op. cit.*, p. 14, n. 2; A. F. Bahnasi, 1967; L. Bercher, 1926, pp. 1–31.

In contemporary non-Muslim criminal law these crimes would be regarded as murder, voluntary and involuntary homicide and manslaughter.[21]

The category of assault and battery denotes the infliction of intentional and unintentional bodily harm resulting in serious or permanent injury to the person, and thus is more than the technical physical contact of assault and battery in contemporary positive legislation. It also includes maiming and other forms of physical disfigurement.

Qiṣāṣ crimes are regarded as violations of the rights of individuals, making it necessary to satisfy and compensate the victim or his family.

The sanctions prescribed for *qiṣāṣ* crimes are either *qiṣāṣ*, i.e. retaliation, the equivalent infliction of physical or bodily harm against the person who committed the act – or alternatively the payment of *diya* by way of compensation.[22] But there are provisions in the Qur'ān for other penalties for crimes of *qiṣāṣ*, including for example exile, prohibition from inheritance and prohibition from the right to dispose of one's property by testamentary disposition.

DIVERGENCES OF VIEWS ON *QIṢĀṢ*

The differences between jurists are significant in many ways. For example, Mālik does not regard killing without specific intent as subject to *qiṣāṣ* because of his interpretation of *sura* IV, verses 92 and 93, which only refer to specific intentional killing. He and others also consider that unintentional killing is punishable only with *diya*. The right to *qiṣāṣ* lies according to some opinions with the male descendants, while others extend it in cases of homicide to the wife. In general all the heirs of a victim have that right, but some say that they must all agree to the talion, while others say that each one has the right to request it. In cases of *diya*, some jurisconsults believe that there must also be repentance; and that is shown either by giving *ṣadaqa* (charity) or by fasting. Some authors state that *qiṣāṣ* must, in cases of assault and battery or mayhem, be exacted in like manner, while others maintain that it can be equivalent. The equivalence applies, for example, to an eye for an eye, but also provided that the transgressor is equal to the victim. Thus a one-eyed person would not lose an eye for having taken the eye of one who has two eyes. Similarly a person with one arm would not lose it if his victim, whose arm he severed, had two arms.

These are only some examples of the many differences between jurists, which lead this writer to believe that a better approach to such a wide range

21. See M. C. Bassiouni, 1980*a*, pp. 230–82.

22. The principle of *diya* is set out in the Qur'ān (IV. 92) wherein it is stated that if one person unintentionally kills another, the family of the deceased is entitled to compensation.

of differences, which violate the principle of equality, would be a sound legislative policy based on the general principles of the *shari'a*.

HISTORICAL BASIS OF *QIṢĀṢ* CRIMES AND PENALTIES AND POLICY TOWARDS THEM

To understand *qiṣāṣ* properly we must consider the historical context of its divine revelation in the Qur'ān. It must be remembered that, according to Islam, the Qur'ān continues the tradition of the Judaeo-Christian teachings concerning the talion (or law of 'an eye for an eye and a tooth for a tooth'; see IV. 135).

The policy supporting the Judaeo-Christian-Islamic principle of talion is essentially twofold. First, it does not allow the victim or his family to exact a greater level of retribution from the person committing the violation or his family. By so limiting the punishment, the infliction of greater vindictive harm upon the perpetrator of the crime or members of his family or tribe is precluded. That practice proved very effective in preserving social order in the early period of Islam, when there was no organized system of criminal justice whereby institutions and official personnel carried out penalties; consequently the latter were imposed by the victim or his family.

The second principle involves the equivalence of the treatment inflicted on the offender (see II. 286). The principle of *qiṣāṣ*, as revealed in the Qur'ān, was designed to limit the harm to be inflicted on certain wrongdoers to the equivalent of the harm inflicted on the victim. Thus one of the policies of *qiṣāṣ* is to limit the consequences of certain categories of wrongdoing. Furthermore the *shari'a* requires that the infliction of *qiṣāṣ* must be in the manner least likely to cause pain. This principle satisfies the general tendency to vindictiveness on the part of the victim and members of his family and tribe while precluding unnecessary harm: 'there is (saving of) Life /To you, O ye men of understanding; /That ye may /Restrain yourselves' (II. 179).

This sense of vindictiveness also can be satisfied by the state or the community acting for and on behalf of the victim, as most contemporary systems of criminal justice aspire to do. There is, however, an alternative penalty called the *diya* (compensation) to be paid by the wrongdoer or his family to the victim or his family.[23] The principle of *diya* finds analogous expression in the contemporary science of victimology, whereby victim compensation emphasizes decriminalization of the act and compensation of the victim as an alternative to the traditional punishment of incarceration.

As between retaliation and *diya* the Qur'ān clearly indicates a preference

23. 'God doth command you /To render back your Trusts /To those to whom they are due; /And when ye judge /Between man and man /That ye judge with justice' (IV. 58).

for *diya* and forgiveness, which negates the application of *qiṣāṣ*. This preference illustrates the bond of continuity between temporal law and religion, since the forgiver will be rewarded in heaven, which for the Muslim is a much greater reward than any other:

> It is part of the Mercy /Of God that thou dost deal /Gently with them. /Wert thou severe /Or harsh-hearted, /They would have broken away /From about thee: so pass over /(Their faults), and ask /For (God's) forgiveness /For them; and consult /Them in affairs (of moment). Then, when thou hast /Taken a decision, /Put thy trust in God. /For God loves those /Who put their trust (in Him) (III. 159).

Thus the combination of *diya* and forgiveness produces a powerful material and spiritual inducement to give up *qiṣāṣ* as retaliation. Hence we must interpret *qiṣāṣ* as based on a general policy of deterrence which recognizes the victim's sense of vindictiveness against his aggressor, while limiting the consequences of the penalty to the harm done and establishing the alternative remedies of victim compensation or outright forgiveness. It is therefore incorrect to regard individual retaliatory *qiṣāṣ* as a requirement of the *shari'a*. On the contrary, the purpose of the *shari'a* is to develop a system of criminal justice which permits the establishment of institutions and the training of officials to carry out specific penalties. Such a view is embodied in several interpretations of the penalty of *qiṣāṣ*, all of which state that the person carrying out the talion penalty must have a certain expertise and experience acquired through training.

In the light of these general observations, it is significant that in several schools of jurisprudence, *qiṣāṣ* crimes for which the penalty of talion is applicable are limited to intentional killings and intentional infliction of serious and permanent bodily harm or maiming, while unintentional killing and unintentional bodily harm or maiming are subject only to the payment of *diya*, or victim compensation. A sound policy limitation can be expressly found in the Qur'ān: 'but let him /Not exceed bounds in the matter /Of taking life . . .' (XVII. 33). Further evidence is provided by the practice of the Prophet, who, when he had the right to *qiṣāṣ* and talion, always forgave the transgressor.

EVIDENTIARY CONSIDERATIONS AND THEIR RELATIONSHIP TO THE POLICY OF *QIṢĀṢ* CRIMES AND PUNISHMENT

Because of the severity of the talion principle, however, a variety of evidentiary requirements must be satisfied before such punishment can be applied.[24] These rules apply, for example, to the proof of the commission of the crime. If the crime cannot be proved in accordance with the evidentiary require-

24. El-Berri, 1975, p. 373.

ments established by the various schools of jurisprudence, then the talion punishment cannot be imposed and only *diya* can be obtained. Again we see the operation of a criminal justice policy intended to make the application of talion more difficult and to encourage victim compensation. Facilitated by these evidentiary rules, the policy of limiting the application of equivalent harm to crimes of intentional killing or maiming (or serious bodily harm having permanent effects) recognizes the individual's right to vindication in such circumstances, but does not promote a broader application because of the adverse effects on the social order. Thus other forms of homicide – involuntary homicide or homicide resulting from excessive retaliation in cases of self-defence – and assault and battery are not governed by the talion principle, but are punishable by payment of *diya*. It is also significant that if there is insufficient proof and the crime is less serious than those for which *qiṣāṣ* is established, then a *ta'zīr* category of penalty can be applied.

Concerning the rules of evidence, the Islamic system of criminal justice recognizes the concept of a hierarchy of crimes and related lesser offences. Thus for example in the area of *ḥudūd* crimes, if a given crime is not proved in accordance with the evidentiary requirements for any of the seven *ḥudūd* crimes, a related lesser crime and penalty can be selected based on the principles of *ta'zīr* offences, which have less exacting standards of evidence and for which the penalty is deemed to be rehabilitative and correctional rather than purely punitive or repressive. The same holds good for *qiṣāṣ* crimes. Thus, for example, physical contact or technical assault that does not result in physical injury or maiming would not be considered a *qiṣāṣ* crime and therefore the talion or *diya* is not imposed. Instead, the *ta'zīr* principle can be applied, which can include a lesser penalty or victim compensation according to the type of harm caused.

Another important aspect of the principle of *diya* is that, although here likened to victim compensation, it is not regarded purely as victim compensation in the same way as civil damages; for *diya* also has a punitive component which gives it criminal characteristics. It is akin to the fixing of a fine for a particular crime, which is different from civil damages, except that in the case of *diya* the fine goes to the member of the victim's family rather than to the state. That is why several jurists have fixed the amount of *diya* in kind.

It is also important to understand the criminal justice policy behind the concept, which allows the state to become involved in the process as a substitute for the victim's family in order to secure the *diya* from the perpetrator or his family and thereafter to give the victim or his family the necessary compensation. Thus it is not necessary for the *diya* to be paid directly or exclusively to the victim or his family: it can go through the state in the form of a fine provided that the state assumes responsibility for being able to satisfy the needs of the family. Many authors have in fact also established a graduated system of *diya* by providing for mitigation and aggravation as determined by the intention of the perpetrator and the harm produced.

Most schools recognize that the right to talion belongs to the male forebears of the victim. Thus the father or grandfather has the right to demand talion or to forgive; the rest of the family is only entitled to agree to the payment of *diya*.

Concerning evidentiary requirements in general, proof of a *qiṣāṣ* crime must be by at least one eyewitness, or by a confession, but there are many distinctions depending upon the various schools. The same general rules of confession apply as in the case of *ḥudūd* crimes (but according to some, with less rigidity), namely that the person who makes the confession must do so voluntarily with understanding and discernment, as well as of his free will without compulsion or coercion. Testimony in the case of homicides must be by two men, or one man and two women, and must be made under oath if requested by the accused. The accused can also represent on oath that the facts asserted by the witnesses are not correct. Witnesses to collateral facts can also be obtained: their number will differ.

Ta'zīr crimes

INTRODUCTION

The word *ta'zīr* means chastisement or correction. It has, however, a punitive connotation, though its intention is to reform the person to be chastised.[25]

Several essential questions arise with respect to *ta'zīr* crimes: the nature of this category of offences; the crimes comprised within it; the penalties applicable to it; the application or execution of the penalties meted out to individual offences; the evidentiary requirements for proving such crimes; and the procedures applicable in the conduct of a trial for such offences.

Neither the Qur'ān nor the *sunna* contains definitive answers to any of the above questions; and none of them have been conclusively decided in the history of Islamic legal doctrine and jurisprudence. There are significant differences of opinion between the four Sunni schools and the various Shī'ite schools.

NATURE OF THE CRIME

The range of opinions held by the four major Sunni schools and the Shī'ite schools is as follows. *Ta'zīr* offences can be: any conduct analogous to that which is prohibited or reprimanded in the Qur'ān or the *sunna* (but which does not constitute a *ḥadd* or *qiṣāṣ* crime); anything that may be deemed a violation of public order, public safety, the common weal or the protected

25. See G. Benmalha, 1982, p. 5, n. 1; C. Āmir, 1966; A. 'Awda, *op. cit.*; Abū Zahra, *op. cit.*, p. 14, n. 2; L. Milliot, 1953, p. 763.

rights of an individual as determined by the ruler or judge (*qāḍī*); any acts penalized under laws promulgated by the ruler (or decided by the judge by analogy [*qiyās*] with existing crimes on a case-by-case basis) which constitute violations of public order, the common weal, or public safety and affect the rights and interests of the community or of individuals (but which do not constitute a *ḥadd* or *qiṣāṣ* crime).

The first two views give the ruler and the *qāḍī* very broad discretionary powers.[26] They contain in fact no limitation on these powers, except that in some instances certain writers recognize the application of the same general limitations on the power of the ruler and the *qāḍī* that exist with respect to other crimes. The basic assumption in this instance is that the ruler and the *qāḍī* fulfil all the ideal conditions that Islam requires for occupying these positions and consequently the judgement of the ruler and the *qāḍī* will be both wise and just. The third view limits the discretion of the ruler and *qāḍī* with respect to the crimes themselves and with respect to the penalties and their applications.

NATURE OF THE PUNISHMENT

The various schools of thought in Islamic legal doctrine and jurisprudence vary with regard to the types of penalties, their application and the extent of judicial discretion. These distinctions are as wide-ranging as they are with regard to the types of crimes that fall within the category of *ta'zīr* and how they are to be established (i.e. by legislative process or decree, or simply at the ad hoc discretion of the ruler or judge).

The divergent views can be summarized as follows:

- no limit on the penalties applicable in *ta'zīr* crimes: the choice is left exclusively to the ruler or judge. The method of execution is also left to their discretion, the ruler having the power to override the judge's decision;
- the penalties must be established on the basis of analogy (*qiyās*) with *ḥudūd* and *qiṣāṣ* crimes, and where there is no direct analogy the judge will tailor his discretion to similar instances as provided in *ḥudūd* and *qiṣāṣ*, but he cannot exceed these limits;

26. For the principle of the individualization of penalties in Islam, see E. Charles, 1965. Al-Māwardī, 1915, p. 504, defines *ta'zīr* as follows: 'Punishment inflicted in cases of offences for which the *shari'a* has not enacted written penalties. The rules relating to it differ depending upon who is inflicting it and upon whom it is inflicted. It has this point in common with established penalties: it, too, is a means of correction and reprimand which varies with the nature of the offence; however, it differs from them in other respects.' See also Abū Zahra, *op. cit.*, p. 14, n. 2, p. 87. On the relationship between crime and punishment see al-Ghazālī, *op. cit.*, pp. 286–7.

- the penalties should be less severe than those for *ḥudūd*, and the discretion of the judge should be limited by specific (established) penalties for specific crimes. Where there is no such specificity the judge would be required to consult with knowledgeable persons (e.g. a jury of experts).

The penalties, depending upon the various schools, include the death penalty, corporal punishment, deprivation of liberty, a pecuniary fine, the compensation of victims, and any other type of rehabilitative or corrective formula that the judge may devise, including a mere reprimand of the person found guilty of the crime.[27]

It must be emphasized that according to every school of thought the implicit premise, almost constantly reaffirmed, is that the judge possesses the qualities of impartiality, fairness (justness), wisdom, knowledge, experience and piety. The assumption is that a person possessed of such qualities will not abuse his power or discretion, and will act justly, fairly and wisely.[28]

TA'ZIR AND THE PRINCIPLES OF LEGALITY AND CRIMINAL RESPONSIBILITY

It is obvious from the above that the existence of a category of crimes in which the offence is not established or defined, nor the penalty established by law, and which provides such unrestricted and undefined discretionary power for the ruler or judge, violates the principles of legality and those of criminal responsibility. It is surprising, however, that throughout the history of

27. The Ḥanafī position considers that the death penalty may be inflicted for *ta'zīr* offences as a necessary measure only where the violation constitutes a serious threat to the maintenance of public order. But it has to be applied only with great restraint; whereas some of the followers of the Shāfi'ī school do not consider that the death penalty can be applied for *ta'zīr* crimes. The debate goes on with regard to what may be deemed a serious threat to the maintenance of public order, such as espionage; see M. C. Bassiouni, 1980*b*, p. 609.
28. Probably the greatest guarantee in the area of *ta'zīr* is both the selection of the judge and what is expected of the judge in the decision-making process and the application of the penalty. For example, the judge must sometimes give plain advice to the offender, sometimes counsel the offender, and sometimes make sure that the offender will not be unduly harmed by the penalty, ostracized in his immediate social surroundings or lose his employment, personal integrity or ability to sustain his family, etc. The judge must also be careful not to impair the honour of the individual or of his family, nor his capacity to perform his role in society. See C. 'Āmir, *op. cit.*, p. 39, n. 1. The ideal model in Islam is that embodied in the message of 'Umar Ibn al-Khaṭṭāb, the second caliph of Islam, to the learned judge Abū Mūsa al-Ash'arī on his appointment as judge over a vast region. See M. C. Bassiouni, 'Sources of Islamic Law and the Protection of Human Rights', in M. C. Bassiouni (ed.), 1982, p. 5, n. 1, pp. 31–2; see also E. Tyan, 1964.

Islamic legal doctrine and jurisprudence this question has not been directly raised or specifically faced, except perhaps in recent times.[29] Contemporary authors indeed have gone to great lengths to explain and justify the fact that these principles have not been fully applied to *ta'zīr* crimes. This, however, begs the question. No crime and no punishment can be exempt from the overriding basic principles of the *shari'a*. In *uṣūl al-fiqh* it is clear that there exists a hierarchy in the sources of law. There is also a science of Qur'ānic exegesis which establishes hierarchy in the specific prescriptions of the Qur'ān. Thus broad principles that are general in scope and nature are to be applied throughout the particular area for which they were designed. It is therefore inconceivable that principles of legality and criminal responsibility which have been stated in both general and specific terms with respect to certain types of crimes should be excluded from application to other types of crimes.

In the light of the above, this author concludes that *ta'zīr* crimes have not been subjected to the rigorous scrutiny of intellectual and doctrinal analysis except for al-Shāfi'ī's doctrine. In our view, there is nothing to exempt *ta'zīr* crimes from the principles of legality and criminal responsibility. Nothing in the Qur'ān and the *sunna* entitles us to suppose that these principles do not apply to *ta'zīr*. Hence we conclude that *ta'zīr* crimes were intended to be offences for which the legislative process would be allowed the greatest degree of latitude – subject, however, to the principles of legality and criminal responsibility, because the legislative process would have to be based on *ijmā'* (consensus), and the specific crimes would have to be defined according to the principles of *qiyas* (analogy) or on the basis of other sources such as *istihsān*, *istiṣlāḥ* or other methods of *ijtihad*. This would be particularly appropriate to the needs of modern societies where it is necessary to regulate and penalize certain types of conduct, particularly those derived from modern technology which have no precedent in traditional Islamic society. Similarly, there is nothing to prevent that particular legislative process from enunciating guidelines and criteria for judicial discretion in the formulation of certain penalties and their application.

Under this view, the wide latitude that is implied in the Qur'ān and the *sunna* could be fully exercised through this appropriate legislative process. This would ensure compliance with the various elements of the principles of legality required by the *shari'a* and of the principles of criminal responsibility either stated in or derived from the *shari'a*. In addition it would preserve the judge's discretion, while subjecting it to appropriate guidelines in order to avoid potential abuses of power and lack of uniformity in the application of punishments.

It must also be stated that the implicit premise on which the four major Sunni schools and the Shī'ite schools developed their concept of broad discre-

29. See Kamel, *op. cit.*, p. 9, n. 3; O. A. M. al-Saleh, *op. cit.*, p. 11, n. 2.

tion residing in the ruler and the *qāḍī* are questionable in modern times. It assumed that both the ruler and the judge fulfil all the ideal conditions of Islam and are possessed of all those exceptional qualities, which are certainly difficult to find in contemporary societies. Moreover, even if such extraordinary individuals could be found nowadays, they could certainly not be found in the large numbers required to administer criminal justice in our modern expanded societies.

EVIDENTIARY MATTERS REGARDING *TA'ZIR* CRIMES

Historically, *ta'zīr* offenders were not given the same guarantees and protections as *ḥudūd* or even *qiṣāṣ* offenders. The notion of the discretionary powers of the judge was interpreted so broadly that very few of the specific rights and guarantees afforded to the accused in *ḥudūd* crimes were applicable to *ta'zīr* offences. There are, however, schools of thought, especially among the Shafi'ī school, that by analogy apply the same or equivalent guarantees and evidentiary requirements to *ta'zīr* offences as are applicable to *ḥudūd* crimes. The main distinction between *ta'zīr* and *ḥudūd*, however, lies in the areas of confession and evidence. Confessions are admissible in *ta'zīr* offences even if withdrawn, but in *ḥudūd* crimes the withdrawal of a confession makes it inadmissible. Furthermore, in *ḥudūd* a confession may not be sufficient unless corroborated by other external evidence or other testimony. This implies that there is less of a guarantee against coerced confessions in the case of *ta'zīr*. It must be noted, however, that although this is the way *ta'zīr* offences have been dealt with, nothing in the *shari'a* requires such a practice to exist or continue to exist.

Basically a judge, having discretion to decide whether a crime has been committed, is also free to consider all other forms of reasonable evidence.[30] The oath is the principal evidentiary instrument that has been resorted to in these cases. All the conditions required of an oath in any other context are also applicable here. Witnesses must also testify, if necessary under oath, and must fulfil all the conditions required of qualified witnesses, such as possession of their intellectual faculties, being pious, being known to be truthful, not harbouring hostile feelings toward the accused, and having been an actual eyewitness or direct witness to the alleged facts and not relating them through hearsay. Finally, the reputation and character of the witness can be an issue. Also, the testimony of one male is equivalent to the testimony of two females.

The presumption of innocence, being a general principle, applies also to *ta'zīr* crimes. This means that in case of doubt the person should not be guilty

30. On the limits of the judge's discretionary power in *ta'zīr* see al-Māwardī, *op. cit.*, pp. 65ff; A. 'Awda, *op. cit.*, p. 14, n. 2, pp. 261ff; Abū Zahra, *op. cit.*, p. 14, n. 2, pp. 321ff; O. A. M. al-Saleh, *op. cit.*, p. 5, n. 1, pp. 55, 61–2; C. 'Āmir, *op. cit.*

and the penalty should not apply. The various schools of thought differ, however, as regards these evidentiary requirements, in particular as regards witnesses testimony and the number of witnesses required. There is much less difference between jurists on evidentiary matters and witnesses' testimony in *ḥudūd* crimes, mainly because many of these questions have been resolved by the *sunna*.

EVIDENTIARY REQUIREMENTS[31]

General considerations

There are evidentiary requirements and considerations which are deemed applicable to each of the three categories of crimes. These evidentiary requirements differ not only according to the category (*ḥudūd*, *qiṣāṣ* or *ta'zīr*) but also according to the crime.[32] They have essentially been the product of evolving legal doctrine and jurisprudence relying on provisions in the Qur'ān or the *sunna*. In our view, however, it would be wrong for such evidentiary requirements to be viewed *stricto sensu* rather than in accordance with the spirit that inspired them, and with the purpose and policies of the *shari'a* towards each of these three categories of offence.

It is also important to view these evidentiary requirements in the light of the general principles of legality and criminal responsibility.

The principle that a person is presumed innocent until proved guilty by his accuser (in court, to the satisfaction of the judge and subject to certain rules) is one of the guiding principles in evidentiary considerations. This is clearly established, for example, in the Qur'ān: 'And those who launch /A charge against chaste women, And produce not four witnesses (To support their allegations), Flog them with eighty stripes' (XXIV. 4).

It must also be emphasized that it is a *ḥadd* crime for a man falsely to accuse his wife of adultery. Furthermore there is a *ḥadīth* of the Prophet's that is quite explicit in this respect: 'If men were to be granted what they claim, some will claim the wealth and lives of others. The burden of proof is on the proponent; an oath is incumbent on him who denies' (al-Bukhārī, *rahn*, 6; al-Tirmidhī, *aḥkām*, 12; Ibn Māja, *aḥkām*, 7).

In another *ḥadīth* the Prophet also stated: 'Your evidence or his oath' (al-Bukhārī, exegesis of *sura* III. 3; Ibn Ḥanbal, IV, 317).

31. See M. Salama, 1982, p. 5, n. 1, pp. 109ff, and bibliography, p. 123.
32. Adultery differs from theft; and these differ, for example, from homicide and *ta'zīr* offences.

Muslim divorce court in Algeria
Kay Lawson © Rapho, Paris

The meaning of evidence

The four major Sunni schools and their sub-schools, and also the Shī'ite schools, differ as regards methods of evidence, and also as regards the evidence specifically required for each category of crimes and for each crime. The majority view is essentially a restrictive one, in that it relies principally on the testimony of witnesses (*shahāda*). This is essentially the position of the Shāfi'ī, Ḥanafī and Ḥanbalī schools. And while these schools find support in certain verses of the Qur'ān which refer to testimony, a number of other provisions in the Qur'ān refer to methods of evidence (in particular *bayyina*) which go beyond the testimony of witnesses. It is surprising, therefore, to find that the whole basis of Islamic legal doctrine and jurisprudence on evidentiary rules seems to have emerged out of testimonial evidence, and essen-

tially regards other sources of evidence as secondary to it.[33] The Qur'ān also states: 'there came /To them Our Apostles /With Clear Signs' (V. 32), the Arabic word here being *bayyināt*, the plural of *bayyina*, 'evidence'. Furthermore the Qur'ān states: 'Nor did the People /Of the Book /Make schisms /Until after there came /To them Clear Evidence' (XCVIII. 4).

Significantly, this verse is contained in a chapter called *Sūrat al bayyina*. Finally, two other provisions of the Qur'ān are relevant here: 'Say: "For me, I (work) /On a clear Sign from my Lord' (VI. 57); and 'Has not /A Clear Sign come to them /Of all that was /In the former Books /Of revelation?' (XX. 133).

Because the Qur'ān refers to 'evidence' (*bayyina*), it is clear that any type of evidence (even if based on modern technological or scientific grounds) is as admissible as any other type of evidence. The question is the validity, credibility and weight to be attributed to different types of evidence. Curiously, however, traditional Islamic jurists have focused more on specific rules and requirements of evidence, mainly testimonial, than on the principles of evidence, which would have been more valuable to them and certainly more relevant to the evolutionary application of these principles to modern means of evidence.

Evidence must be introduced in court and before the judge. There must be an opportunity to confront the accuser and the witness. There must also be an opportunity to hear the oath of the witness and to observe his appearance and demeanour. That must always be done in the presence of the judge and the accused. The judge must rely on what is introduced in evidence before him in court, not on his personal knowledge or beliefs about certain matters, and have the necessary evidence brought out into open court before himself and the accused.

Doubt should be resolved in favour of the accused. Though some authors have stated that this rule should apply only to *ḥudūd* crimes, some extend it to *qiṣāṣ*, but most exclude it for *ta'zīr* crimes. This also is a matter of controversy, which has unfortunately not been resolved by the proponents of the various views. In the opinion of this writer, the wider principles of the *shari'a*, including the specific 'presumption of innocence', should have been deemed an overriding principle, thus making doubt always favour the accused, irrespective of the nature of the crime.

Testimonial evidence: witnesses

The rules about witnesses vary according to the crime. In some *ḥudūd* crimes four witnesses are required, in other crimes three, and in others two. In some

33. This is all the more surprising in that the Qur'ān itself (II. 282–283) requires written evidence in contractual matters.

cases, e.g. in *ta'zīr*, only one witness is required. Witnesses must always start their testimony with the word 'I testify' (*ashhadu*), which implies that the witness has seen with his own eyes. This excludes hearsay evidence, or anything the witness may recount as having heard from others, but there are exceptions to this rule. Hearsay evidence is not, for example, excluded in *ta'zīr* offences or as corroboration of other witnesses' direct testimony.

Qiṣāṣ crimes require two witnesses. But some authors are satisfied with one if no other witness can be found. Furthermore, for some authors, corroborating evidence is admissible by other means in support of the oath of the victim, or if the victim is dead. The question of the criteria for the admissibility and reliability of witnesses' testimony is a matter of debate between the various schools of thought.

The general requirements shared by all schools (though subject to some variation) are that a witness must possess maturity, reason, memory, capacity of speech, visual and audible perception, good moral character, piety and honesty and not be subject to legal disqualification such as family ties or blood relations with either of the parties, personal enmity with either of the parties, partiality, or certain types of prior criminal convictions (such as *qadhf*).

It is surprising to find so much historical legal doctrine and jurisprudence devoted to witnesses and evidentiary requirements in general in the case of *ḥudūd* and *qiṣāṣ* crimes, and so little in that of *ta'zīr* crimes. The reason may very well be that in the early days of Islam crimes of *ḥudūd* and *qiṣāṣ* were those most frequently punished, while crimes of *ta'zīr* were much less common. Furthermore it seems that the entire doctrinal and jurisprudential tradition has been to develop greater evidentiary restrictions on *ḥudūd* crimes, which would make punishment more difficult because of its seriousness, while interpersonal *qiṣāṣ* matters were mostly settled through compensation (*diya*).

Presumptions (*qarā'in*, singular *qarīna*)

Presumptions are the logical inferences to be drawn from certain circumstances, events or evidence. They fall into two categories, refutable and irrefutable presumptions. Presumptions are considered by most jurists as equivalent to other evidence. For most of them, however, they carry less weight than the testimony of witnesses.

Presumptions are mostly not relied upon in *ḥudūd* crimes because of the seriousness of the offences, but they may be relied upon as corroborative of other evidence. This rests on a *ḥadīth* of the Prophet which states: 'Were I to stone anyone without evidence, I would stone so and so (*fulana*) for her speech, appearance, and cohabitation which raises suspicion' (al-Bukhārī, *tamannī*, 9; *ḥudūd*, 43; Ibn Māja, *ḥudūd*, 11; Ibn Ḥanbal, I, 226). This reinforces the basic rule that doubt precludes a finding of guilt in a *ḥadd* crime, and that a presumption of its very nature is always doubtful and not conclusive and

cannot therefore be the basis of evidence for a judgement in a *ḥadd* crime. But presumptions such as that of pregnancy are admissible in cases of adultery where the woman has no husband and has not claimed to have been raped. Similarly, the smell of alcohol on a person's breath would entitle one to presume that the person had been drinking alcohol.

The liberal view is that all evidence, including presumptions that bring truth to light, is admissible, and that the only question that remains is its weight and credibility. This, however, is a judgement to be made according to all the factual circumstances and the nature of the case in question.

Confessions

There is also much controversy about the nature and admissibility of confessions. While this question should be subject to the application of an overriding general principle, rather than being considered in isolation, this has not been the case historically. Thus the debate between the various jurists has been about the condition under which a confession must be made, how many times it must be repeated, whether it should be corroborated, whether in case of doubt the judge should exclude it, whether a confession can be recanted and what effect this would have on the personal conviction of the judge. Jurists also differ about each of these factors with respect to the different categories of crimes. Clearly, because both the Qur'ān and the *sunna* provide for the careful limitation of confessions in *ḥudūd* crimes there is much less discretion than in *qiṣaṣ* and *ta'zīr* crimes, where the historical jurisprudential trend seems to have been to give the judge more discretion as regards the admissibility of confessions and the weight to be given them than in *ḥudūd* crimes.

The general rules about confessions in *ḥudūd* crimes are that a confession may be withdrawn at any time; that a confession which is the product of coercion is not admissible; that a confession must usually be corroborated by other external evidence; and that a confession can only take the place of testimony if it is repeated as many times as the number of witnesses needed (e.g. if four witnesses are needed, the confession must be repeated four times). Even in this area there is disagreement as to whether it has to be repeated four times during the same session or at four different sessions.

Some jurists also believe that an extrajudicial confession can be admissible if witnessed by two persons who can then testify in person and satisfy the requirements of witnesses. The confession must be made of free will and consciously, and must be unequivocal and clear, leaving no doubt (*shubha*). In the absence of free will or the presence of *shubha* the confession is not admissible.

CONCLUSION

The Islamic criminal justice system has evolved through time from the first/seventh century to the present day. The search for its authentic meaning must respond to the letter and spirit of the *shari'a*. Nothing in the *shari'a* prevents the codification of crimes and punishments. The principle of legality can and must be upheld. The administration of criminal justice must afford the accused the procedural and evidentiary safeguards established according to the letter and spirit of the *shari'a* in the light of contemporary legal processes and modern technology.

Modern, effective, up-to-date techniques of judicial administration that answer to the contemporary spirit of reform are to be used. The example of the Prophet and the far-sightedness of the four Orthodox Caliphs should guide and enlighten us. Their actions should not, however, be interpreted literally.

The use of modern theories of criminology and penology are by no means barred by the *shari'a*, and should be resorted to.

Those who claim that Islam is static have understood very little of its essential dynamic, which has been so effective through the ages among very different peoples.

Chapter 13

THE PROTECTION OF MINORITIES

Abdelwahab Bouhdiba

This chapter deals with a problem that has been obscured by the superposition of three questions: that of minority rights as defined in modern positive law and international law; that of the emergence in the Islamic world of modern states built on ethnic or linguistic foundations, but in which communities defined on a confessional basis and communities structured on a national basis coexist; and lastly, that of the attitude of early Islam and later classical Islam to non-Muslims living in Muslim countries and subject to Muslim rule. Our aim is to disentangle these questions, try to clarify the discussion and remove the many misunderstandings maintained by centuries of prejudice. Many people have used the minority question (and manipulated the minorities themselves) to seek with varying success to make it into a warhorse. So let us leave polemics aside and try to study Islam's political, legal and cultural attitudes from within. We shall need to be rigorous and objective and go back to first principles. Let us start by agreeing on what we mean by minorities.

In every time and place groups have oppressed other groups, but especially since communities have been politically organized. Membership of a community implies inclusion and exclusion. 'We over here' make a stand against 'Them over there'. 'We the Greeks', 'They the barbarians', '*hoi barbaroi*'; 'We the Christians', 'They the gentiles'. *Gentilis* in low Latin means foreigner and barbarian. This is the term the early Christians chose to designate pagans. In this sense it meant the same as the Hebrew plural *goyim* ('nations' or non-Jews; Latin, *gentes*).

Modern sociology teaches us what a major role these membership relationships play in the growth of self-awareness within any group. A good approach to collective identity is to consider the way internal crystallization or flocculation[1] takes place within human societies and binds groups together

1. This technical term for the formation of flocks, tufts or masses is especially apt for the living processes of association and dissociation that make up groups within a society.

along certain lines by creating both specificity and differentiation. Specificity and differentiation result from various centrifugal and centripetal forces that structure and strengthen a society. Every human group is always passionately on the lookout for founding values and distinguishing marks, which are the essential features of its being. According to a well-known dialectic whose main features were brought out by Hegel, a group gains its place by opposing and by opposing gains its place. The 'question' of minorities is just as much, if not more, that of the majority.

Now processes by which the collective being emerges are not a matter of size. They exist within small groups as well as within huge complexes. They allow minorities to differentiate themselves from majority groups; the latter for their part tend to keep them at a distance. These differentiations are often used by social groups as the components of a strategy for exercising power over one another. It should be noted that there have always been majorities that oppress minorities (as under the great empires) and minorities that oppress majorities (as was the case in ancient Greece, where the Spartans were certainly 'equals', or *homoioi*, but among themselves: the 10,000-odd citizens exercised a strict dictatorship over both the *perioeci* and the Helots. Though there were more of them, the 20,000-odd citizens of Athens still exercised a 'very democratic' dictatorship over the 100,000-odd aliens and the 400,000-odd *douloi*, or slaves). The dictatorship of minorities over majorities has also had a colonial character, and continued into the present age in the form of apartheid.

So we must stop equating minorities with oppressed groups and regarding majorities as always oppressive.

Moreover the problem of minorities does not always arise in the same terms. In the West the emergence of the modern state took place concomitantly with the oppression of minorities, initially mainly for religious reasons. In France, for example, a basic principle (expressed by the adage '*eius regio cuius religio*') sought to give the kingdom true religious homogeneity. From that point on, the history of the Jews in Europe has been a long sequence of persecutions, pogroms and martyrdom. There is a certain consistence and continuity in European history from the Inquisition to Nazism and totalitarianism. Although there were breaks in the period from Torquemada to the concentration camps, there was also resurgence. Rulers and religious authorities were of course sometimes compassionate and took deprived communities under their protection, thus saving them from massacre or extermination. In so doing, these 'protected' communities found themselves de facto subjected to '*capitis diminutio*'. A minority was by definition legally diminished. The wars of religion did not spare those communities that were closest to one another. The long and tragic history of relations between Catholics and Protestants shows that the physical destruction of people and their property and culture – which continues to this day in Ireland, for example –

has spared neither of the two communities which found themselves simultaneously or in turn oppressor and oppressed. The fact that nowadays the intensity of these conflicts has greatly diminished should lead us neither to generalize nor to despair.

Modern times have introduced lucidity and new elements of historical appreciation, since the state presents itself as a moral authority that is equally binding on all citizens, who are decreed equal in rights. The minority problem then stops arising as a legal problem as such: the modern state unites the nation, and within it citizens have the same obligations and duties whichever area they come from and whatever their religion and social class. National unity is deemed to abolish tension between the minorities and the majority. These two words and the things they stand for are now transferred to the electoral level; they are set in historically precarious terms, and hence regularly challenged.

Paradoxically, it was the birth of modern positive law that revived the minority problem. This is because congruity between state, nation and ethnic or linguistic community is far from being universal. The idea of community is nowadays no longer defined solely in religious terms. The problem of minorities arose all the more acutely because in Central Europe centripetal forces deprived Austria–Hungary of any hope of forming a homogeneous whole. The sequel is well known: the First World War and the 'Balkanization' of Central Europe – not that that solved the concrete problems of European minorities, since the most serious persecution ever practised on a 'minority' (viz. the genocide of the Jewish people) was in a sense the direct, though unforeseen, outcome of the principles that should have effectively and permanently protected Jewish minorities.

Current legal and political doctrine concerning minorities stems from the need to protect them. Their status in Europe itself and elsewhere has perhaps never been so fragile. The current success of the idea of human rights, and the drawing up of national and international instruments to give specific protection to the human person regardless of race, colour, ethnic group, language, culture or religion, are a real triumph. They should provide a genuine legal solution to the minority problem, given that human rights are 'absolutely universal' rights and hence imply transcending the barriers between different categories of citizens within a single nation.

This preamble was necessary to clear away the fog that surrounds the idea of minority. It allows us to conclude that the idea of minority is not a religious but a socio-political one; it applies to any group of people that sets itself up as a community with a culture of its own that is sufficiently coherent to distinguish it from the larger community within which it lives and in which it is numerically smaller. The other conclusion that flows from the preceding analysis is that the place of a minority can only be successfully defined within a pluralist society. Any centralist or unitary society, and the

nationalist ideas on which it is based, runs up against the problems of ethnic groups that can only be defined by reference to the central groups.

That being so, what is Islam's position on this question? It should be noted at the outset that the idea of a minority itself is neither Islamic nor Arabic. The word *aqalliya* (plural *aqalliyat*) is a nineteenth-century neologism. The idea of a number has never been a criterion in Islam for judging the coherence of legal systems or the cohesiveness of communities. The latter is organized around a Prophet and a Book. In Islam an *umma* is defined by the Revelation it has received. Muslims are defined in terms of the Qur'ān and Muḥammad, Christians in terms of Jesus and the Gospel, Jews in terms of Moses and the Torah. The 'we' is 'we Muslims'; and the 'they' is 'they non-Muslims', who may be Jews or Christians or Zoroastrians. It is membership of a community that identifies the person. Hence the idea that an individual is always a member of a community, and that it is relationships between communities that define relationships between individuals. There are thus relationships of Muslims among themselves and with other persons, defined in either universal or specific terms according to the communities to which they belong.

The essential and only valid requirement of Islam is the establishment of inter-community law on the basis of this coexistence of religious communities. Criteria of language, ethnic group, colour and social status were quickly abolished at the outset, i.e. at the beginning of the first/seventh century, when the attitude of Islam showed itself to be astonishingly modern and universalist, based on the brotherhood of man and brotherhood in religion. There were never any other criteria in either the Qur'ān or the *sunna* or at any stage in the development of Muslim law. Islam can be said to reject outright the very idea of a minority as it later became established in modern Western and international positive law. It anticipated the preoccupations of modern legislators.

The value of Muslim, Christian or any other truth never depends on the number of its champions. In such matters 'one is as a thousand and a thousand is as nothing' (*wahid ka-alf, wa alf ka-uff*). Unlike Hegelian, Marxist or other materialist ideologies, Islam has never linked truth to the quality or number of its adherents. We know that millions of people can join together to defend error and that there are, unfortunately, truths and values for which no one is ready to sacrifice his life. That does not turn the former into truths nor the latter into errors. The prime hoax of our time is to delude people that values can arise magically from some group or other which is suddenly promoted to be the vector of history, or that they can be outdated and become obsolete because of the passage of time.

Hence Muslims may be 'in the minority' here or there, today or tomorrow; but this in no way changes their faith or the value of their beliefs. If they became a majority there would likewise be no change, either in their obliga-

tions or in their rights, except perhaps increased responsibility (the pretext of impotence being no longer available as an excuse). The same is true of the other communities. Consistent with itself, Islam posits the essential unity of the People of the Book. In its view, if they have diverged it is because the Revelation made to Moses and Jesus has been distorted. Thus Islam reinstates the Revelation. But this reinstatement is a real inauguration, for the communities are built around the Word of God, revealed anew but as it always was.

Thus the brotherhood of man is one in essence, even though it has several degrees. First, there is universal human brotherhood. All men are united in God their creator: 'O mankind! We created /You from a single (pair) /Of a male and a female, /And made you into /Nations and tribes, that /Ye may know each other . . . Verily /The most honoured of you /In the sight of God /Is (he who is) the most /Righteous of you. /And God has full knowledge /And is well-acquainted /(With all things)' (XLIX. 13). The words of the Qur'ān are addressed explicitly, as here, to mankind as a whole. It explicitly posits the equality of all mankind. Only faith – which is not specifically defined in any way – introduces a hierarchy between them. Distancing is only the result of the depth of the intensity of our relationships with God. The plurality of human groups (communities, nations and tribes) stems from original fundamental unity, and results in mutual intercourse (*li-ta'ārafū*) (XLIX. 13).

Diversity is wealth. Plural diversity implies relationships of mutual knowledge. The other is thus not a stranger, an *alienus*. He is a brother with whom I am at one from the outset. Human solidarity is fundamental and creative. 'My servants who believe! /Truly, spacious is My Earth: /Therefore serve ye Me /(And Me alone)' (XXIX. 56).

Within this unity of mankind the People of the Book form a privileged community:

> And dispute ye not /With the People of the Book, /Except with means better /(Than mere disputation), unless /It be with those of them /Who inflict wrong (and injury): /But say, 'We believe /In the Revelation which has /Come down to us and in that /Which came down to you: /Our God and your God /Is One; and it is to Him /We bow (in Islam)'. /And thus (it is) that We /Have sent down the Book /To thee. So the People /Of the Book believe therein (XXIX. 46–47.

There is a community of faith between all believers, and particularly between the devotees of monotheism. They are therefore entitled to a special status. Hence relationships between the Muslim community and Christians and Jews are special relationships. '. . . but say: I believe /In the Book which /God has sent down; /And I am commanded /To judge justly between you. /God is our Lord /And your Lord. For us /(Is the responsibility for) /Our deeds and

for you /For your deeds. There is /No contention between us /And you. God will /Bring us together, /And to Him is /(Our) final goal' (XLII. 15; see also II. 109). The Qur'ān also states:

> Of the People of the Book /Are a portion that stand /(For the right); they rehearse /The Signs of God all night long, /And they prostrate themselves /In adoration. /They believe in God /And the Last Day; /They enjoin what is right /And forbid what is wrong; /And they hasten (in emulation) /In (all) good works. /They are in the ranks /Of the righteous. /Of the good that they do /Nothing will be rejected /Of them: for God knoweth well /Those that do right (III. 113–115).

The criteria here adopted put the People of the Book very close to the Muslim community, since the latter is explicitly defined by 'the enjoining of good and the forbidding of evil'.

Of course relationships between members of the Muslim community are even closer. They are united by a spiritual communion that in each one transcends any possible differentiation. Between them 'the fusion of the We's' is at its peak. Enlightened by God, who is 'the Light of the heavens and the earth', 'By Men whom neither /Traffic nor merchandise /Can divert from the Remembrance /Of God, nor from regular Prayer /Nor from the practice /Of regular charity: /Their (only) fear is /For the Day when /Hearts and eyes /Will be transformed' (XXIV. 35–37; see also XLVII. 1–2).

Thus there is no difference between the prophets. This is what Islam proclaims: 'Say ye! We believe /In God and the Revelation /Given to us, and to Abraham, /Ismā'īl, Isaac, Jacob, /And the Tribes, and that given /To Moses and Jesus . . . We make no difference /Between one and another of them' (II. 136).

The natural solidarity that unites all mankind is thus strengthened by membership of the People of the Book, which creates special links between Muslim, Christian and Jewish communities: it reaches its point of maximum fusion around the word of the Qur'ān. There are thus three levels of interpersonal solidarity: human solidarity, which is the widest; then the narrower monotheistic solidarity; and lastly Muslim solidarity, which is the most intense. It will thus be seen that human horizons are concentrated around faith, which gives rise to interpersonal obligations that are related to the content of the universalist, monotheistic, specifically Muslim creed. But by the same token the idea of a minority seems incongruous and pointless. Not one sign or trace of racism or ethnocentrism is to be found in the Qur'ān or the *sunna*: indeed, it is clearly laid down that solidarity in God abolishes all barriers of whatever kind. There is no 'difference between an Arab and a non-Arab except that established by piety' (Ibn Ḥanbal, V, 411), as Muḥammad liked to recall. All racial, ethnic, linguistic or other kind of discrimination is anti-Islamic: indeed, it is a fundamentally impious attitude.

Thus there are differences between religions; Islam not only admits and recognizes them as such, but it accepts all the implications that flow from them. It is proper for a Muslim to apply the rules and customs of the Qur'ān in his public and private life. He must defend his freedom to believe, practise and apply Qur'ānic legislation. By the same token, he recognizes the rights of others to practise their religion, with all the consequences that this entails for everyone else.

The fact of being in a majority or a minority confers no right to oppress other communities, whatever they may be. The chapters in this volume on human rights and inter-community relations examine in detail the rights accorded to other communities, and we shall not dwell on them here. We shall content ourselves with presenting the attitude of Islam, which is made up of tolerance and reciprocity: *lā ikrāh fi'l-dīn* (No compulsion in religion). Non-Muslims in a Muslim society can practise their religion in complete freedom, not only as regards the creed and the liturgy but also as regards the rules governing marriage, divorce and inheritance. They are not expected to defend the Muslim community by force of arms. They are not liable to the military duty of the *jihād*; all that is required of them is loyalty.

Coexistence between the communities of course had to be organized in practice. Peace is the normal and natural state of relations between men: war has its laws, and imposes constraints and specific rules. Muḥammad made a real effort to bring about an overall political union with the Jews and Christians. The constitution of year I of the Hegira, in the words of Gaudefroy-Demombynes, is 'a masterpiece of international politics'.[2] Ibn Hishām[3] has preserved for us the venerable text of it, which represents one of the earliest attempts to create a consensus and substitute an organic legal solidarity for mechanical tribal solidarity. It states that around Muḥammad the Muslims and Jews of Medina constitute 'a united community distinct from other men' (*innahum ummatun wāḥida min dūn al-nās*). This text also states that 'Allah's protection is unique.' It further decrees that 'the Jews who follow us shall have help and assistance' (*fa-inna lahu 'l-naṣra wa 'l-uswa*). 'They shall not be oppressed and whoever attacks them shall have no help' (*ghayr mazlūmīn wa-lā mutanāṣirīn 'alayhim*). Lastly, it states that any dispute that arises must be submitted to God and to Muḥammad (*mahmā ikhtalaftum fīh fa-inna maraddahū ilā Allāh wa-ilā Muḥammad*).

Thus the foundations of intercommunal solidarity were laid in year I (i.e. fourteen centuries ago). God's protection is one. Etymologically the word *dhimma* implies an obligation, a surety, a guarantee, a responsibility and an awareness of the consequences of our actions. It is a solemn covenant guaranteed by God by which the communities are assured of an alliance and

2. M. Gaudefroy-Demombynes, 1957, p. 113.
3. Ibn Hishām, 1955, II, p. 341.

mutual protection. The *ahl al-dhimma* are the members of the communities with which this covenant was contracted; this covenant may be explicit, like that of year I, or implicit, following from the fundamental rules inspired by the Qur'ān.

The Medina constitution thus binds the Jewish tribes and the Muslims, in a solemn covenant guaranteed by God and secured by Muḥammad, to enter into partnership to observe harmony, respect people's lives and take part if need be in the defence of the oasis of Yathrib. All agree to defer to the authority of the Prophet. Significantly, the blood price that was so important at the time is imposed on all members of the union. This means that this principle, which was essential for the society of the time, broadened solidarity and took it out of its tribal framework into a framework of consensus. It is a real revolution in the framework of solidarity. All disputes are transcended by recourse to the Prophet, the supreme *ḥakam* in peace and *qā'id* in war. Gaudefroy-Demombynes notes: 'it is remarkable to observe . . . the moderation of Muḥammad, who . . . does not even mention religion; family and tribal organizations are unchanged; it is solely a matter of peace between groups'.[4]

Thus mere difference of religion must in no way create enmity or hatred between Muslims and non-Muslims. This fundamental new principle has been continually reaffirmed throughout the centuries. Close to our own times Sheikh Shaltūt, the former rector of al-Azhar, has forcefully restated it: 'Islam by no means makes mere difference of religion grounds for a split, separation, deprivation of freedom or expulsion from one's home. Only declared hostility can incite to enmity and war.'[5] The sheikh quotes these two crystal-clear verses from the Qur'ān:

> God forbids you not /With regard to those who /Fight you not for (your) Faith /Nor drive you out /Of your homes /From dealing kindly and justly /With them: For God loveth /Those who are just. /God only forbids you /With regard to those who /Fight you for (your) Faith, /And drive you out /Of your homes, and support /(Others) in driving you out, /From turning to them /(For friendship and protection). /It is such as turn to them /(In these circumstances), /That do wrong (LX. 8–9).

Islam thus blazed an absolutely clear trail: and it has no reason to be envious of the most recent theories about human rights. It is for this reason that Islam is so at home with current human rights doctrine, as 'Abd al-'Aẓīz Kamil demonstrates in this very volume. The status of *dhimma* merely organized the cohabitation of the other communities within Muslim society in peacetime and in practical terms, while taking the measures for vigilance called for in wartime. This status of *dhimma* has been well defined by Claude Cahen as 'the

4. Gaudefroy-Demombynes, *op. cit.*, p. 115.
5. M. Shaltūt, 1982, p. 263.

sort of indefinitely renewed contract through which the Muslim community accords hospitality and protection to members of other revealed religions, on condition of their acknowledging the domination of Islam'.[6] The status itself has often varied: it has been more or less strict according to circumstances and points of view. Periods of threat and unrest usually produced greater strictness whereas peace and prosperity allowed tolerance to flourish. The status of the *dhimmīs* guaranteed them freedom of conscience, freedom of worship, free use of the places set aside for that worship, and the continued practice by each community of its laws and traditions and the chieftancy system. This status was also extended to non-monotheists, such as Zoroastrians and Buddhists, by applying to their cases the reasoning by analogy that is so important in *fiqh*. Restrictions such as the ban on insulting Islam or proselytizing among Muslims were of course enacted here and there. Children of mixed marriages were automatically Muslim; on the other hand, a foundling child abandoned in a predominantly Jewish or Christian district was pronounced a Jew or a Christian. Non-Muslims, as already mentioned, were exempt from military service. They could be appointed to any financial or administrative post or situation; the only restriction applied to the military and political command at the pinnacle of the hierarchy. But they could advise or serve as experts, even at this level. One of the responsibilities of the *muḥtasib* was to see that the *dhimmīs* were well treated, for protection and good treatment were due to them by virtue of a solemn covenant that committed the whole Muslim community. God prescribes that covenants be scrupulously respected. 'O ye who believe! Fulfil all obligations': so begins the *sura* of 'The Table Spread' (V. 1); and the Prophet stated emphatically: 'Whoever harms a *dhimmī* or someone covered by a covenant, We shall be his enemies on the last Judgement Day' (*man adhā dhimmīyan aw mu'āhidan naḥnu khaṣmuhū yawma al-qiyāma*).[7]

It must be admitted that these rules of protection were effective, despite the excesses that all the ulemas condemned and rejected and against which they struggled, often successfully. The historian Claude Cahen states: 'There was nothing in medieval Islam which could specifically be called anti-Semitism.'[8]

Cahen elsewhere pronounces the following balanced judgement:

> Within the Muslim states the situation of the non-Muslim was thus correct [. . .]. We must be neither romantic nor anachronistic. The *dhimmīs* were discriminated against by the tax-collector and the interconfessional courts. Distinctions of dress were periodically reintroduced and hence inoperative (their main aim being to prevent espionage) [. . .]; there was a ban on building new

6. C. Cahen, *EI*[2] art. 'Dhimma'.
7. Quoted by Imam 'Alī, in Ibn Abī al-Ḥadīd, 1958–1964, III, p. 91.
8. C. Cahen, *art. cit.*

> places of worship (which could always be got round for money); there was a ban on pain of death (rarely enforced) on insulting Islam and on converts apostatizing: and Muslims often exhibited a sort of aristocratic disdain. All things considered, by comparison with other societies of the time, life does not seem to have been hard for the non-Muslim faiths. Those living on the frontiers who could have emigrated did not do so [. . .]. Christian culture lasted [. . .]. Jewish culture developed; the Muslim world was a cultural and economic paradise for Jews in the ninth, tenth and eleventh centuries. The situation was one not so much of independent cultures (outside the realm of religion) but rather of participation in a great shared civilization. For want of a better name, it must certainly be called Muslim, but (especially in the scientific field) it was one in which doctors and scholars of all faiths fraternized. In everyday life there could be trades that predominated in one faith, people concentrated around their own places of worship, and so on: but there was never segregation, nor the equivalent of ghettos. There may have been fits of anger by a mob, though rarely for directly religious reasons; but the authorities would intervene on the side of order, even if they expected to be paid for it.[9]

The question of the *kharāj* and *jizya* taxes has been the source of much misunderstanding. Yet it seems straightforward: non-Muslims did not pay *zakāt* on their incomes and were exempt from military service. The *kharāj*, a land tax, and the *jizya*, a poll tax, were in a way their equivalents. The Qur'ān says: 'Fight those who believe not /In God nor the Last Day, /Nor hold that forbidden /Which hath been forbidden /By God and His Apostle, /Nor acknowledge the Religion /Of Truth (even if they are) /Of the People of the Book /Until they pay the *Jizya* /With willing submission, /And feel themselves subdued' (IX. 29). The poll tax was an act of social allegiance, which created a special right of entry into the *umma*. It set the seal on the acceptance by both sides of the constitution and the solemn covenant under which the People of the Book had complete freedom to practise their religion and the right to keep their personal status. This verse implies that once the tribute has been paid, there is no further need to fight against the People of the Book, who are accepted as such into Muslim hospitality.

The *jizya* is a substitute tax. It is almost the equivalent of the 'blood tax', i.e. military service for the religious *jihād*, which cannot be demanded of non-Muslims out of respect for their faith. It is significant in this connection that the *dhimmīs*, who, collectively or individually, participate in the defence of the homeland, are automatically exempt from it.[10]

The *kharāj* is a property tax owed by the land. It played an essential role in the economic history of Islam. At the beginning of the Arab conquest, local taxes continued to be levied according to the traditions and customs of the locality. The old taxes went on being collected, but for the benefit of the

9. C. Cahen, 1983, pp. 18–19.
10. See below, Chapter 15.

new state.[11] This perhaps explains the difference of regime as between the various provinces: Iraq, Syria, Egypt and Andalusia did not have the same tax base. It is for historians to bring out the broad outlines of the system that was empirically and pragmatically set up. For our present purpose, the essential point to note is that all non-Muslim local inhabitants were guaranteed the possession of their land on payment of the *kharāj*, which was often regarded as the equivalent of the *zakāt* payable only by Muslims.

The tax developed in the sense of becoming linked more to the land than to the landowner. In this way the *kharāj* stopped being 'discriminatory', since the basis of it, the land itself, took the tax out of the realm of the landowner's religion.[12] That the *kharāj* was too heavy, that economic interests were grafted on the original religious concerns, and that that gave rise to many abuses, is all too true. But the essential fact remains that even on this point Muslims and non-Muslims were in the same situation; princes who committed abuses were not bothered by niceties.

In other words, grievous though the tax question may always have been, there is no justification for saying that it was used by Muslims to oppress non-Muslims, still less for connecting it with the status of 'minorities'.

The truth is that the problem of 'minorities' is itself linked with the attitude of the West towards the Christian communities living under the Muslim (especially the Ottoman) empire. It was the West, no doubt projecting its own habits of thought on to others, that perceived Christians in Muslim countries as a minority. Indeed, it went so far as to claim a right of protection over them. It sought – sometimes successfully – to use them as advance guards on the spot in order to split them off from the covenant with their host country and try to attach them to the protecting country. The 'crusading spirit' became further exacerbated with colonization. Capitulations, the economy of the Levant ports, and the use of the 'nationalities' living in the Ottoman empire created an 'Eastern Question' out of nothing; for the European powers this amounted to alternately upholding, according to the interests and circumstances of the moment, either the integrity of the Ottoman empire or the oppressed minorities' right to set up their own states. The Christians admittedly asked nothing better than to free themselves from the Ottoman yoke, which had certainly become too heavy, especially in view of the exaggerated hopes which the European powers dangled before them.

The 'minorities', having become the pawn of political rivalries between the Turks and the Europeans, saw their status politicized to the utmost and became involved in international rivalries that no longer had much to do with

11. Abū Yūsuf, 1985. One of the oldest treatises on the subject, it begins by likening the *kharāj* to booty (*ghanā'im*) (see pp. 97–110), and explicitly links this tax to the advancement of the conquest.
12. For further details, see C. Cahen, *EI*[2] art. 'Kharādj'.

Islam, Christianity or Judaism. The need to modernize the Ottoman empire and attune it to the modern world was more immediate, for it had to face up to diplomatic, military and political questions in new terms. The minority problem went far beyond the right of the *millets* (nationalities) to self-government. It became a stake in a double game: the Europeans were wondering how to dismember the Turkish empire to best suit their conflicting interests and compromises, whereas for the Ottoman administration it was a question of transforming the whole structure of the empire and introducing the social and cultural changes required by the circumstances of the moment. The need for religious thinkers to solve the problem of alien 'minorities' was bound in such circumstances to be based on misunderstandings. The Tanzimat reforms introduced by Sultan Abdulmajid were intended to introduce reforms inspired both by the spirit of Islam and by the modern philosophy of individual rights. Grand Vizier Rashid Pasha introduced the Ordinance of 3 November 1839, the so-called Gulhane Charter, in these words, which are significant for our purpose:

> The institutions must cover three points, viz.: (1) guarantees that give our subjects complete security for their lives, their honour and their property; (2) a systematic method of levying and collecting taxes; (3) an equally systematic method for the recruitment of soldiers and the length of their service.[13]

The Gulhane provisions were not in themselves contrary to either the spirit or the letter of Islam, except as regards conscription.

As we have seen, the right to life, property and the free exercise of religion were always guaranteed by Islam. Taxation and military service by non-Muslim subjects could of course always be amended. Nevertheless the ratification of Gulhane was perceived as a challenge to the established order and as shamelessly pandering to foreign interests. It was obviously part of a device to dismember the Ottoman empire, and meant a defeat for Islam. 'Words of truth intended to underpin error': this disillusioned remark by the chronicler Ben Dhiaf about the *'Ahd al-aman* (which recapitulated in Tunisia almost the same provisions as Gulhane) applied equally to the latter. The game played by the European powers, which on the one hand urged reforms and on the other sabotaged them, is well described by Gaston Wiet, who did not hesitate to write: 'Reforms sincerely introduced were disparaged from within; the fact that they were not enforced, which is perhaps what the Powers secretly wanted, justified new carve-ups.'[14]

This is enough to show that the question of minorities in Islam cannot in modern times be analysed away from the international political context, in

13. See G. Wiet, 1958, pp. 1198–9. See also E. D. Engelhardt, 1882, text of the Charter, pp. 257ff.
14. G. Wiet, *op. cit.*, p. 201.

which European colonial and imperialist aims played a fundamental role. Admittedly the latter did not create the problem out of nothing. The European powers worked furiously to put an end to centuries of peaceful coexistence between the religious communities, and to use the Christians and Jews against Muslim rule. France and England above all, but also Russia, Italy, Austria and Germany, promised the earth to the 'minorities'; and this was all the easier since they would not have to foot the bill. The Maronites in Lebanon,[15] the Copts in Egypt, the Kurds, Armenians and Greeks in Asia Minor, and the Jews in Palestine and the Maghrib were in turn, depending on the needs of the moment, to be subjected to European blandishments. All these communities were to be disappointed. None would have its state. Only Zionism – taking advantage of the emotions aroused by Hitler's ghastly genocide (committed by Europeans in Europe itself) and ruthlessly exploiting a West that was ashamed of itself and even of its own guilt – was to manage to give concrete form to one of the countless European declarations. It can be said, with the perspective of hindsight, that none of the 'minority' questions in the Islamic world was solved with the approach adopted to them by European chanceries.

From the beginning, this has never been a problem of a 'minority' or a 'majority'. What is called a minority is a socio-political fact that must be dealt with as such. A minority only becomes one if it perceives itself as such. It is the awareness of being oppressed that creates a community, by giving it its cohesiveness. But for this minority awareness to emerge, it needs external recognition. It is the 'majority', by 'oppressing' the 'minority' and treating it as one, that gives it its passport to history. Now Islam, as we have amply demonstrated, perceives the other simply as the other, never as a diminished entity. From this point of view, oppression has never been exercised – except on rare occasions, happily limited in time and space and always in flagrant violation of the letter and spirit of Islam – against Christian, Jewish or other communities living in the Islamic world: and even when persecuted by Europe, Jews, for example, have always found among Muslims the hospitality dictated by their common adherence to the Word of God. It was the Catholic Queen Isabella who deported the Jews from Spain, and it was the Muslim Maghrib that welcomed them, as it later did the Jews of Livorno. The absence of systematic oppression could never have made the alien communities 'minorities' in the Muslim countries. The communities were never subjected to attempts at assimilation. They retained great independence. They kept their individuality. It was European influence that, playing with fire, tried to tempt

15. Louis XIV had already given this diplomatic instruction: 'Let us enjoin the consuls and vice-consuls of the French Nation established in the Levant ports to do their utmost to encourage the Patriarch and all the Maronite Christians of Mount Lebanon.' Quoted in *ibid.*, p. 1202.

Mosque and keep in Pocitelj,
on the Naretwa (Bosnia and Herzegovina)
Loirat © Explorer, Paris

them to set themselves up as 'minorities' against the majority. By involving them in revolts, it thereby set off an uncontrollable reaction, which was often tragic and pointless, as in the case of the Armenians and Kurds. Thus the problem stopped being religious and became political. This was no longer Islam's doing, but resulted from the emergence in pain and violence of the modern nation-states; they asserted themselves as centralist, unitary entities, and left the Islamic ideal of the pluralist society very little chance.

The way the minority problem was presented by the European powers and chanceries seems nowadays to stand condemned by the facts as unrealistic and a dead end, and also senseless. It amounted to trying to force ethnic group and state to coincide at any price, although it is obvious that the problem of minorities cannot be solved by giving them each a state. A state derives its historical legitimacy from many factors. This is not to say that the minority problem is artificial, or boils down to no more than a diabolical invention by 'foreign interests'. It is legitimate for a religious, ethnic or linguistic community to try to demonstrate and even cultivate its individuality and

strengthen its identity. But the urge to live one's own life cannot operate in a vacuum or without taking account of the situation of society as a whole. Everywhere today there is a balance to be maintained between the various communities, regions and social classes. The interests of all sides and their relations with the outside world must be the subject of compromises negotiated in the light of external constraints, their relationships with the whole, and the various groups' links with production levels and structures; and all this must take account of the key sectors of political, economic, social and cultural life. But whatever these constraints may be, the minority question must nowadays always be tackled in terms of individual and collective rights. For the main problem remains that of politically organizing the cohabitation of groups of people within larger wholes; and on this point the lessons of Islam must not be forgotten.

Moreover, it is almost in Islamic terms that the international community, learning from its serious failures, today presents the problem. The International Covenant on Civil and Political Rights, which has now come into force under the auspices of the United Nations, declares that: 'In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion or to use their own language' (Article 27).

To state the problem in these terms is to move the narrow question of minorities into the broad perspective of human rights. It is to acknowledge the right of any human group to set itself up as a collective entity without necessarily moving towards political separatism. The social ideal of the United Nations Charter is a pluralist, individualist ideal based on freedom. The modern age has devoted much effort to this question, and many problems still need to be solved in order to strengthen legal protection and make it more effective. Thus by transcending the question and (at any rate for the Muslim countries) removing it from its colonial framework, the minority problem has entered a decisive phase.

But this particular situation must not serve as an excuse to question Islam's enormous contribution. For paradoxically – though only in appearance – the authors of the United Nations Charter have merely caught up with the year I constitution of Medina, which already stated: *dhimmat Allāh wāḥida* (God's protection is one). Islamic tolerance was neither conjunctural nor opportunistic. It rests on a postulate that has been reaffirmed for centuries in all its grandeur, viz. the exemplary dignity of the sons of Adam: *innā karramnā banī Ādam*.[16] The rights of man – which in Islam are rights of God – apply

16. XVII. 70: 'We have honoured the sons /Of Adam; provided them /With transport on land and sea; /Given them for sustenance things /Good and pure; and conferred /On them special favours, /Above a great part /Of Our Creation.'

universally and absolutely without any restriction. This Islamic message of tolerance is not unwelcome in this world of ours, in which much remains to be done both in the Muslim world and outside it.

Islam can thus make a decisive contribution to a correct and concerted understanding of the minority question; and thereby help to organize institutionally the peaceful coexistence of communities without using them against each other or seeking to set up illusory powers by dint of lying, plundering and driving the weak from their lands and homes.

The last volume of this work will examine in detail the current situation of minorities in the Islamic world, and also that of Muslims outside their cultural area. We feel that it is already accepted that Islam's tolerant attitude (in the widest, deepest and loftiest sense of the word) has had results that needed bringing out and stating. There is nothing laid down in the great international legal texts that has not already been undertaken by Islam. Although Islam cannot legitimately be expected to solve problems that stem from a logic which is not its own – in this case that of nation-states – it can always provide lessons in wisdom and transcendence.

Chapter 14

A UNIVERSAL RELIGION AND INTER-COMMUNITY RELATIONS

Emel Dogramaci

In the world as it then existed, the advent of Islam brought about a complete break with what had previously been the relationship between societies. While in domestic terms the Muslim state substituted the community for the tribe, in external terms it introduced a whole new conception of relationships between countries. The Islamic revolution was not merely one of religion, ethics and law, but also one of politics. Its universal message drew new demarcation lines between people and brought out new lines of force. 'We Arabs' and 'We Byzantines or Persians' were replaced by 'We Muslims' and 'Those non-Muslims'. Tribal solidarity gave way to solidarity deriving from the new credo.

International relations were extensively disrupted as a result. The city-states and conglomerate empires of the time would in future need to reckon with the new Islamic society, not only because a new political entity was appearing on the horizon with which it would be necessary to come to terms politically and economically, but also and particularly because the ideals behind it represented a radically new conception of interpersonal and international relations. Aiming at universalism, Islam from the outset disrupted frontiers and arrogated to itself supervisory rights even inside other states. The faith of a state's subjects was immediately removed from its control. The Islamic *umma* comprised all who embraced the new religion and thereby committed themselves to an organic system very different from that of their society of origin. It was almost as though Islam implicitly included in its programme the right to interfere: the good word was announced, the new message propagated, conversions were invited and new forms of solidarity developed, new values emerged and hence institutions were set up to constitute a state. Islam aimed at cosmopolitanism from the outset. All political societies were urged to change. Thus Islam brought a new leaven to history. It gave rise to new forces alongside the traditional ones that ran the political society of cities, states and empires.

The Muslim faith developed new centres of gravity. In Arabia itself it was revealed as a centripetal force that united and solidified the community and welded together what was previously only a collection of tribes. Polarization no longer took place at tribe or clan level, nor even at that of race or koine. Solidarity in blood gave way to brotherhood in God. Polarization came into being around membership of the new credo, whose written charter was the Qur'ān and whose living symbol was Muḥammad. Faith also revealed itself, more subtly but just as deeply and genuinely, as a centrifugal force, in the sense that it excluded from Muḥammad's community all who rejected his message and deliberately, and so to speak spontaneously, put themselves outside it. But this new vision extended beyond its narrow frame of reference. It was no longer the geographic frontiers of established states that counted, nor even allegiance to a sovereign, a chief, *basileus* or king. The new frontier was the one that delimited membership of a faith: it found its way inside every society, every tribe, even every family. Thus Islam brought about a real social reclassification, which was bound to lead to a political reclassification.

True solidarity was that of the faith, coextensive with the *umma*, thus making for unification from within, but (another major novelty) without necessarily devaluing those outside it. The Muslim faith created no civil or political monopoly. Islam has never taught that Muslim society is the only one entitled to exist. Admittedly, it benefits from the primacy conferred by the Revelation and membership of the word of the Qur'ān; it holds the key of the kingdom; it is the road to truth. It must work to spread the truth by peaceful means, and if it is the victim of violence then it must take up the challenge and give like for like. But other civil societies can legitimately – and this is simply stating a fact – set themselves up as political entities, sometimes even in the shadow of Islam. So every society has its own polarization. Islam has never claimed to be the only way of structuring society. Other ways of structuring exist, so that an individual who does not belong to the *umma* is not an outsider, a pariah or an outcast. He belongs to another *umma*, that of Christ, Moses or someone else. The faith also delimits the nation. It is a way of belonging. It is not of course Islam's job to define the way other nations are structured: it is for them to organize themselves independently in the light of their own credo, their customs and their value systems.

Islam is in duty bound not only to recognize these societies but to maintain the best possible relations with them, and if necessary to give them help and assistance. Islam is the basis for an internationalism in the strict sense of the word, certainly the first in history and one whose modernity and tolerance never cease to amaze. Islamic solidarity does not exclude other forms of solidarity, in particular the broadest on the scale of the whole human species. Indeed, it invites it, and acknowledges its natural and imprescriptible character. So alongside the social and political horizon which encompasses my brothers

in Islam, Islam strongly supports the horizon which comprehends all my brothers in God.

Such are the premises of Islam. They entail a radical change in collective aims; an ethic of social relationships within every community and of relationships with all nations based on mutual recognition; international relations based on peace; and the justification of war only in cases of self-defence.

The redrawing of social boundaries in Islam has nothing to do with stratification of class or race. Islam proclaims the end of discrimination based on social origin, economic status, language or colour, or even religion. The following two verses are seminal in the sense that they define the new order and suggest a new view of relationships between human societies:

> O mankind! We created /You from a single (pair) /Of a male and a female, /And made you into /Nations and tribes, that /Ye may know each other /(Not that ye may despise /Each other). Verily /The most honoured of you /In the sight of God /Is (he who is) the most /Righteous of you. /And God has full knowledge /And is well acquainted /(With all things) (XLIX. 13).

> O mankind! reverence /Your Guardian-Lord, /Who created you /From a single Person, /Created, of like nature, /His mate, and from them twain /Scattered (like seeds) /Countless men and women; /– Reverence God, through Whom /Ye demand your mutual (rights), /And (reverence) the wombs /(That bore you): for God /Ever watches over you (IV. 1).

These texts have given rise to many glosses: it is not the moment to go into them in detail here. Let us be content to point out that the unity of mankind is stated as an absolute. We are all descended from a single being. Proliferation is a natural biological fact and can create no divisions or stratifications. Unity, dignity and equality are values which cover the whole of mankind. The unitary breath of the human species creates an imprescriptible, unbeatable solidarity between us all.

Moreover division into social groups, peoples and tribes is explicitly described as serving a very specific purpose, viz. mutual knowledge. Pluralism is not a curse. It is not the result of a temporal, necessarily conflictual historical process. Far from being negative, it is totally positive. It is the result of an act of God. Proceeding from His wisdom, it is a source of mutual enrichment. The Qur'ān says: *li-ta'ārafū* (that you may know each other). Nations must enjoy relationships of interchange, complementarity and harmony. Everyone always has something to teach his neighbour, and something to learn from him. There is no such thing as self-sufficiency, whether economic, intellectual, ethical or cultural. Nations strive together to the same end and are not just competitive. They are continually engaged in endless processes of rivalry and emulation. Each of them always has a contribution to make: and mutual recognition of the importance of this contribution is the basis of the rules of interchange.

Thus unity of source and diversity of structure are the two poles of the temporal organization of mankind. This organization in itself is neutral and objective: it takes place only as a result of each individual's degree of piety. Each man's dignity is measured in God's view, hence in a supernatural ahistorical space, by the yardstick of his own piety. And this hierarchical organization is the fruit of divine omniscience, endowed as it is with information and perceptiveness which enable it (and it alone) to focus on the ultimate intentions of each conscience.

Mutual enrichment is complemented by the reciprocal assistance that nations are in duty bound to give one another, and God is witness to this shared assistance. Thus mutual understanding finds its natural extension in the intersocial help that men give each other. Family loyalties and blood-ties are not rejected or condemned here, but must be accepted as part of the piety which alone determines the hierarchical organization of men. Blood-ties are not disapproved of, but they do not act automatically: Islam subjects them also to the criterion of piety. The active love that members of the same family bear each other is saved, and even perceived as a secure value, but it is not exclusive or essential, nor does it give rise to social or political links. The readjustment is sizeable, and by itself alone expresses the Islamic revolution.

The two verses quoted above have naturally been interpreted as giving equal rank and similar privileges to all social groups, Arab and non-Arab. The political supremacy which, with the extension of the Muslim empire, passed from Arabs to Muslims historically fuelled the great debate about *shu'ūbiyya*.[1] That debate concerned itself more with historical conflicts than with the discussion of ideas, which is all that we are dealing with here.

On the basis of the principles discussed, we must distinguish between the characteristics of the relations between Muslim countries on the one hand, and between them and the other countries making up the international community on the other. Between Muslim countries it was the ethics of the Qur'ān that determined the rules: everyone belonged to the *umma*, and everyone professed the same religion, hence what separated them could only be temporal. Nothing essential could separate Muslims. By submitting their disputes to the prescriptions of the Qur'ān, they could and must find suitable solutions to them. The Qur'ān teaches very specifically: 'If two parties

1. The building up of the Muslim empire was not the work of the Arabs alone, though they played an essential role. All the peoples which embraced Islam had a large part in it. It was in the nature of things that conflicts and tensions should arise between Arabs and non-Arabs. The Persians in particular claimed a place within the Islamic caliphate in proportion to their numbers, the role they had played and their cultural heritage, especially since the shared religion supposedly entitled them to equality of opportunity and treatment. This tendency to make claims (which was to be shared by other peoples) has come to be known as *shu'ūbiyya*.

among /The Believers fall into /A quarrel, make ye peace /Between them: but if /One of them transgresses /Beyond bounds against the other, /Then fight ye (all) against /The one that transgresses /Until it complies with /The command of God; /But if it complies, then /Make peace between them /With justice, and be fair: /For God loves those /Who are fair (and just)' (XLIX. 9).

The diversity and pluralism of the *umma* as historically organized may well have given rise to disputes due to different interests or ideas about life. Belonging to a single faith is likely to produce a basis for agreement. It is unthinkable that Muslims should come to blows, which is the absolute negation of Islamic solidarity. Inter-Islamic violence is an unbearable disgrace which must be reduced: it is for other Muslims to stop it. 'Whatever it be wherein /Ye differ, the decision /Thereof is with God' (XLII. 10).

Thus the Muslim community has an arbitration function in disputes that arise within it. It is for it to do its own policing, in order to quell, by force if necessary, the party or parties which attack others.

These venerable texts have not aged at all, in the sense that they provide an ethical-cum-legal framework for the peaceful (or failing that, the forcible) settlement of disputes. This framework is completed by the definition of an aggressor, of the roles of arbitration, and of practical ways of carrying it out and enforcing it on the parties in dispute.

As regards relations between Muslim and non-Muslim countries, the basis can no longer be the ethics of the Qur'ān, since by definition one of the

Fourth Islamic Summit Conference, January 1984
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parties does not subscribe to them: it is recourse to the universal principles of equity, justice and freedom. Mutual recognition provides the broadest and most natural basis for relations between nations: and it was this recognition that the Muslim state born at Medina dramatically sought to obtain. This is the deep historical meaning of the correspondence, handed down by tradition, by which Muḥammad sought to obtain the recognition of other states: a meaning much wider than mere preaching or spreading of the faith. To Heraclius, emperor of Byzantium, to Chosroës, king of Persia, to Muqawqas, governor of Egypt, to the Negus of Abyssinia, to Ḥawdha Ibn 'Alī of Yamāma, to Jafar and 'Abbād of Oman and to al-Mundhir of Bahrain – to all of them the Prophet sent letters.[2] This correspondence was first and foremost an annunciation to one and all. The partners were asked to embrace Islam and submit, not to Muḥammad, but to God.

The Prophet thus took the first steps towards a foreign policy for the new Islamic state. By sending letters to the leaders of neighbouring states he sought to demonstrate the historical and geopolitical integration of the newborn state. It was enough for him to urge them to believe in the oneness of God and the authenticity of his mission. The refusal of some, the open hostility of others, or the persecution of the infant Islam would lead the new Muslim state to defend itself and resort to violence, recognized as a necessary means of gaining a place in history. Violence was thus seen as an exceptional last resort, giving rise in itself to no rights and always remaining the most precarious of means. Needless to say, the normal state of relations between nations continued to be speaking, preaching, friendship and peace.

International relations depend on equity. If others transgress, prefer injustice and tend towards violence, the answer is to reply in kind to put an end to their intrigues. The fact remains nevertheless that the message of the Qur'ān is imprescriptible. Tradition rightly emphasizes the universal applicability of the following two verses: 'Follow not the lusts /(Of your hearts), lest ye /Swerve' (IV. 135); 'O ye who believe! /Stand out firmly /For God, as witnesses /To fair dealing, and let not /The hatred of others /To you make you swerve /To wrong and depart from /Justice. Be just: that is /Next to Piety' (V. 8).

Such is the absolute rule that enabled the late Sheikh Shaltūt to write these profound words: 'On these foundations Islam constructed a policy of reconciliation among Muslims and also between them and the other nations. So that peace is the normal state that works for co-operation, mutual understanding and the universal propagation of goodness. This normal state asks of non-Muslims only to stop all malevolence.'[3] Having 'radically rejected all recourse to constraint and violence', Sheikh Shaltūt quotes the well-known

2. M. Hamidullah, 1952.
3. M. Shaltūt, 1975, p. 453.

verse: 'If it had been thy Lord's Will, /They would all have believed, – /All who are on earth! /Wilt thou then compel mankind, /Against their will, to believe!' (X. 99). And he concludes: 'If non-Muslims opt for peace, then in Islam's eyes they become brothers in humanity just like Muslims themselves. They co-operate to ensure universal good. To every man his own religion, for which he preaches with wisdom and good preaching, harming no one and infringing no one's rights!'[4] It cannot be overemphasized that the last word in Islam is a word of peace, friendship and universal co-operation.

Idealism is not, of course, Utopia, and Muslims know all too well, just like other peoples, that the world we live in, while admittedly aspiring profoundly to these ideals, contains an irreducible minimum of evil, violence and hence war. War is accepted as a last resort, but always within strict limits of self-defence. Again, according to Sheikh Shaltūt:

> Islam only forsakes this natural preference for peace if hostilities are deliberately declared against it, if obstacles are put in its path, if seditious agitations are stirred up against it, or if torture and unjust treatment are inflicted on its members: then and only then are Muslims allowed to return hostility for hostility, and only in order to re-establish peace and restore equity. Islam therefore forbids them any offensive wars, any repression, any arbitrary destruction of natural resources, and any subjection of God's creatures to oppression.[5]

It was in this spirit that God proclaimed: 'Fight in the cause of God /Those who fight you, /But do not transgress limits; /For God loveth not transgressors' (II. 190).

From this viewpoint, so Sheikh Shaltūt notes, tradition derives the following six principles:

- Peace and co-operation are the norm in human relationships.
- War must only be the temporary enforced treatment of a situation in which wisdom and fair words have turned out to be vain.
- If war breaks out, it must only be regarded as a necessity and treated as such, without enmity or hatred.
- Civilians must be shielded from any unjust treatment and protected from undue suffering.
- Peace must be granted immediately if one party requests it.
- Prisoners of war must be treated with humanity and kindness pending their liberation or exchange.[6]

Islam has certainly codified a law of warfare, which never gives anyone the right to make war. The reason is that evil is one of the components of human

4. *Ibid.*
5. *Ibid.*
6. *Ibid.*, p. 454.

society, as in our century we have good reason to know. But peace is the norm of international relations. In any event, once one party sues for peace, the other must immediately agree to it: 'But if the enemy /Incline towards peace, /Do thou (also) incline /Towards peace,' in the words of the Qur'ān (VIII. 61).

Thus Islam, which is continuous building and unending construction, conceives of its role only as a contribution to God's work. God created mankind in a pluralist mode: thereafter it is not for anybody to seek an illusory and unthinkable unity, still less to impose it by force of arms. The secret of peace lies in mutual recognition by the various nations, and that is the fulfilment not only of God's design but of one of man's most profound ambitions. Mankind will be pluralist or it will fail to exist. History will progress and develop according to the ideals of peace, exchange, co-operation and friendship.

The message of Islam is more topical than ever. Its teaching is addressed to the whole of mankind: but first and foremost to all those Muslims who try hard to disregard the noble ideals they are nevertheless supposed to defend and embody.

Inter-Islamic relations, and Muslim countries' relationships with the rest of the international community, can only gain by returning to a more wholesome practice regarding international relations, in other words, in the spirit of Islam.

Chapter 15

THE PROMOTION OF HUMAN RIGHTS

'Abd al-'Aziz Kamil

Human rights are now among the foremost of humanity's political, legal and civil conquests. They have generated the broadest consensus that has ever been achieved. They have become the focus of the efforts made at national and international level by all those who believe in human beings and are working for their liberation and advancement. It is not, however, anachronistic to speak of human rights in Islam. Nor is it artificial. For while it is quite clear that human rights need to be defended everywhere – even in Muslim countries, where it would be absurd to think that there is no longer anything remaining to be done in this field – it is none the less true that Islam has made a huge contribution to the promotion of human rights.

Many chapters in this book are in fact no more than an illustration of the minute care that Islam has devoted to the whole issue of human rights, both in respect of its underlying philosophy and in terms of the legal injunctions that have been introduced to ensure that people living in Muslim countries may effectively enjoy those rights. The whole subject has indeed been abundantly dealt with, whether from the angle of rights and responsibilities in Muslim law, education, women, children and young people, economic values, the state, criminal penalties, minorities or international relations. The purpose of this chapter is, without going over the same ground, to show how Islam has made a serious and decisive contribution to the development of human rights doctrine and that it can still play a major role in ensuring their victory.

Nevertheless, there are no 'new human rights'. They are eternal and as old as human awareness. In fact, we are talking about the development and formulation of principles that see people as free, responsible beings who are the masters of their own fate. It is important to draw the ultimate conclusions from these basic principles. The concern is, above all, to develop new patterns of thought and means of protection so as to ensure that the fundamental, eternal and inalienable rights of the human person prevail in society. For this rea-

son, human rights are at once eternal in their essence and continuously being formulated. The advantage of international human rights instruments is that they serve as contemporary benchmarks and have a legal scope such as to make them binding on all the states that have ratified them. They are the subject of a very broad consensus and form an integral part of *jus cogens*. They accordingly have a universal value. Being clearly formulated in legal terms and set at the very centre of the concerns of leading international governmental and non-governmental organizations, they enjoy enormous prestige and are recognized to be of great value.[1]

In the case of Islam, we may go further and state unreservedly that they were already observed. Islam did not wait until the twentieth century to proclaim the principles enshrined in the Charter of the United Nations. There is absolutely no contradiction between those principles and those of the Qur'ān and the *sunna*. Their ultimate purposes are identical and throughout the centuries the Muslim community has unceasingly endeavoured to promote them.

However, in Islam the rights of man are first and foremost the rights of God. It was God who created man, gave him a central place in the universe and made him His delegate and vicegerent on earth. The divine creative act makes human rights sacred and vests them with absolute scope.

The Qur'ān establishes an essential link between religion and human nature. Religion is nature, and sound nature is religion. Religion has its faith and its law, and nature has its pattern of behaviour and modes of application. In Muslim life there is this meeting, or union, between religion and human nature. From this union comes responsibility, with its two components, right and duty, or, in Islamic terms, trust (*amāna*) and the imposition of duties (*taklīf*).

1. The following are the most important resolutions on human rights adopted by the United Nations General Assembly: (1) the Universal Declaration of Human Rights (adopted in December 1948), which usually forms the basis of any comparison with the Islamic *shari'a*, given that it is the most detailed formulation of human rights in the modern world; (2) the United Nations Declaration on the Elimination of All Forms of Racial Discrimination (20 November 1963); (3) the International Covenant on Civil and Political Rights (December 1966), which was to take effect on 15 July 1967; (4) the International Covenant on Economic, Social and Cultural Rights, likewise adopted in December 1966. At the end of the World Conference on Cultural Policies organized by UNESCO in Mexico City from 26 July to 6 August 1982 the 'Mexico Declaration on Cultural Policies' was adopted. This stated 'that in its widest sense, culture may now be said to be the whole complex of distinctive spiritual, material, intellectual and emotional features that characterize a society or social group. It includes not only the arts and letters, but also modes of life, the fundamental rights of the human being, value systems, traditions and beliefs.' See the Declaration and the Resolutions of the Conference, published by UNESCO. For a comparative study of human rights see M. F. 'Uthmān, 1982.

The imposition of duties (*taklīf*) in the Qur'ān is required of all believers. Each bears his share of them in accordance with his capabilities and status in society:

> The Apostle believeth /In what hath been revealed /To him from his Lord, /As do the men of faith. /Each one (of them) believeth /In God, His angels, /His books, and His apostles. /"We make no distinction (they say) /Between one and another /Of His apostles." And they say: /"We hear, and we obey: /(We seek) Thy forgiveness, /Our Lord, and to Thee /Is the end of all journeys." On no soul doth God /Place a burden greater /Than it can bear. /It gets every good that it earns, /And it suffers every ill that it earns (II. 285–286).

An individual thus takes on well-defined responsibilities in society: rights, which he exercises or claims and which he endeavours to guarantee, and duties, which he must seek to fulfil.

The creation of man was at once an investment, an initiation and an existential experience. Adam, the common ancestor of all humanity, the first prophet and the universal model, underwent two experiences. First, God taught him the names, and he learnt them. Then God asked him about these names in front of the angels, and he recited them. Then He established him in His paradise, granted him rights and charged him with duties. "There is therein (enough provision) /For thee not to go hungry /Nor to go naked, /Nor to suffer from thirst, /Nor from the sun's heat' (XX. 118–119).

Commenting on this verse, Imam Ibn Kathīr says: "The parallel is between hunger and nakedness, for hunger is inward humiliation and nakedness is outward humiliation . . . thirst is inward heat, and the heat of the sun is outward heat."[2]

This is the basis of human rights, which is essentially the right to life. In addition, other similar rights are closely associated with these rights, such as the right to earn one's living and freedom of movement.

As for duty, it is symbolized in the story of Adam by the prohibition on going near the tree described as the tree of immortality. If Adam's first experience was that of knowledge and how to acquire it, the second, for him and Eve, was that of responsibility, in other words obedience, together with freedom of will and choice. Disobedience and the expulsion from Eden merely symbolize the learning of freedom and its attendant risks, and signal the beginning of the great human adventure.

Adam and Eve, exercising their free choice, did it is true take the wrong path, but both then realized their fault and God judged them. They admitted their fault: "They said: "Our Lord! /We have wronged our own souls: /If

2. *Tafsīr al-Imām Ibn Kathīr* [The Interpretation of the Imam Ibn Kathīr]. This work exists in many editions. We shall limit ourselves to showing the position of the verses. There is also a summary by M. 'Alī al-Ṣābūnī, published in three volumes by Dār al-Qur'ān al-Karīm, Beirut.

Thou forgive us not /And bestow not upon us /Thy Mercy, we shall /Certainly be lost" ' (VII. 23).

In the Qur'ān, God forgave. He absolved Adam and Eve and did not burden them with original sin. He guided and chose them, and the sending of Adam and Eve and their offspring down to this world is in fact a sign of success and election; after Adam had taken a 'preparatory course' to carry out this mission, he was given an education, and acquired knowledge, and the angels bowed down before him. Having the freedom to choose and search, he misused it; but he at once acknowledged his fault and enjoyed the mercy of God, who pardoned him. This marked the beginning of a noble task: to build a world in which man moves by the light of divine inspiration and human reason. This promise holds for the future and for Adam's descendants: 'O ye Children of Adam! /Whenever there come to you /Apostles from amongst you, /Rehearsing My Signs unto you, – /Those who are righteous /And mend (their lives), – /On them shall be no fear /Nor shall they grieve' (VII. 35). Man thus has the 'right' to start his life with God with a 'clean sheet', lacking the sins previously committed for which he is not responsible.

However, it is man's 'duty' to commit himself to following the path set for him by his Lord, which is, we repeat, that of divine inspiration and of reason (XXIX. 41–43). This is the source of the seminal idea that in Islam, human brotherhood is a responsibility.

Islam takes no account of skin colour or social status. The Qur'ān states that humanity is a single family with one God and one father: 'O mankind! reverence /Your Guardian-Lord, /Who created you /From a single Person, /Created, of like nature, /His mate, and from them twain /Scattered (like seeds) /Countless men and women; – /Reverence God, through Whom /Ye demand your mutual (rights), /And (reverence) the wombs /(That bore you): for God /Ever watches over you' (IV. 1).

In Islam monotheism does not mean merely the oneness of God. It extends to the oneness of human fraternity and to the equal treatment to be given to all people. This threefold oneness underpins the equality of all.

These are the three planks of human rights in Islam. Taking man as the focus of this study, and representing his horizons as points on a circle, we find that there are six in the following order: the immediate environment; the universe; the family; the state and the community; the international community; and God Himself. We can also represent them in another way, viz. as the trunk of a tree with five branches. The trunk represents the relationship to God and the five branches represent the relationships to the universe, the environment, the family, the state and humanity as a whole.

Man's relationship to God cannot be defined as a 'right' or a 'duty' in the legal sense, since in the Islamic view man exists by God's grace and mercy. 'Is it not His to create /And to govern? Blessed /Be God, the Cherisher /And Sustainer of the Worlds!' (VII. 54).

The two terms 'right' and 'duty' are only used to distinguish between a grace previously granted by God and a responsibility which we undertake in the journey through life, under God's all-encompassing mercy. The starting-point in the study of rights is the 'position' God has assigned to man. Man starts his life as though it were a clean slate. He embarks on it according to his ability and talents, without any kind of preconditions by which he might be said to be predetermined. This point is crucial in Islamic thought;[3] the Muslim is conscious from the beginning of his dignity on the one hand and of God's justice on the other. With these two wings, dignity and justice, he can take flight to life's horizons.

In Islam individual differences of language, colour, geographic origin and ability are no more than manifestations of God's power, and enable men the better to help each other (XIX. 13). Multiplicity is a sign of richness and the leaven of history and of civilization. The basis of human culture lies then in conditions of existence willed by God. It is at the meeting-point of the will of God and that of humanity.

Rights are therefore absolutely universal. They are sacred because they flow from the creative act of God. They underpin strict equality, universal human brotherhood and essential human dignity. From the outset, man has a right to life and to happiness. The practical arrangements for life in Islamic society are accordingly aimed at establishing the true conditions for the effective enjoyment of this right to life and to happiness.

For greater convenience, we shall try to show how Islam organizes these rights. We shall consider in turn intellectual rights (freedom of thought, freedom of belief and freedom of information), political rights (participation in public life, democracy), civil rights (judicial rights), economic rights (the right to work, to health and to solidarity) and, lastly, cultural rights.

In Islam, freedom of belief is the basis. The Qur'ān states: 'No compulsion /In religion' (II. 256). This universal principle is repeatedly spelled out: 'To you be your Way, /And to me mine' (CIX. 6); 'Invite (all) to the Way /Of thy Lord with wisdom /And beautiful preaching; /And argue with them /In ways that are best /And most gracious: /For thy Lord knoweth best, /Who have strayed from His Path, /And who receive guidance' (XVI. 125). Here we have three complementary paths resting on the Qur'ān and the *sunna* which underpin the relations between Muslims and non-Muslims in respect of religion: wisdom, which makes it possible to convince intellectuals; a lofty exhortation, the purpose of which is to inspire longing and

3. See M. Iqbāl, 1970. This book is the result of a series of lectures delivered in English in 1928 at schools in Hyderabad and Aligarh. They were translated into several languages, including Arabic and French. The third of those lectures is entitled 'The Conception of God and the Meaning of Prayer', pp. 63–94. In his writing Iqbāl devoted much attention to human rights, duties and responsibilities. See also 'A. Kāmil, 1970.

fear and relies on the experience of earlier and contemporary nations and the future life; and discussion, i.e. a clash of views between followers of the same or different religions.

As might be expected, opinions differ, and there is a continuous dialogue between people who hold different convictions and opinions. The call to meditation is constant and is enjoined by God and His Prophet: 'Do they not consider /The Qur'ān (with care)? /Had it been from other /Than God, they would surely /Have found therein /Much discrepancy' (IV. 82). The call to meditation rules out any intellectual or physical constraint. Hence tolerance and religious freedom are a necessity and an essential of the Muslim faith. God says: 'Let there be no compulsion /In religion: Truth stands out /Clear from Error: whoever /Rejects Evil and believes /In God hath grasped /The most trustworthy /Hand-Hold, that never breaks. /And God heareth /And knoweth all things' (II. 256).

Here two cases need to be distinguished in the matter of relations with non-Muslims. Islamic society directly integrates all who live in it and grants a special status to non-Muslims, regarding them as 'protected by Muslims' (*dhimmīs*). They have rights and duties governed by the *shari'a* according to its general texts or to treaties and rules respected by both parties. Islamic society consequently integrates Muslims and non-Muslims alike.

But the question that arises is to what extent do Muslims enjoy the freedom to change religion? Here we must first distinguish between the interests of the state (Islam being essentially a state and a religion) and the individual's freedom to choose his religion. The question also arises whether a Muslim can cease to be a Muslim, and whether this implies any restriction on religious freedom.

Abū Bakr fought against the apostates, who both denied the fundamental principles of the religion and waged an armed rebellion against the state. This rebellion did not conceal its destructive intent: not only did it threaten the security of the state, it also sought to destroy its very existence and break down its territorial and spiritual unity. This counts as a precedent which was decisive in preserving the new Islamic faith and in defining crime.

The first thing, of course, is to invite these apostates to return to the bosom of Islam, using wisdom, exhortation and discussion. If they refuse, the state has no alternative but to preserve its existence even if it means using force. But the case in question took the form of collective apostasy combined with armed rebellion, which has nothing to do with freedom of religion.

As regards individual cases of apostasy, there is clearly a need for dialogue which must be maintained and never broken off. It is true that the provision exists for capital punishment.[4] However it should be avoided in indi-

4. Reported by al-Bukhārī and Muslim according to Ibn Mas'ūd; see al-Tabrīzī, 1961, II, p. 258, *hadīth* No. 3446.

vidual cases which do not involve a conspiracy against the state but simply a lack of faith. Such is the opinion in modern times of the Grand Imam Maḥmūd Shaltūt, rector of al-Azhar, in a chapter entitled '*Uqūbāt al-i'tidā' 'alā al-dīn bi'l-ridda* [Penalty for Attacking the Faith by Apostasy]:

> The attack on the faith committed by an apostate entails the negation of the fundamental truths of the faith or the committing of acts showing an attitude of contempt for the faith and of unbelief. With reference to this crime God says in the Qur'ān: 'And if any of you /Turn back from their faith /And die in unbelief, /Their works will bear no fruit /In this life /And in the Hereafter; /They will be /Companions of the Fire /And will abide therein' (II. 217).

As can be seen, this verse limits itself to judging as fruitless the deeds of unbelievers in this world, and pledging them to eternal fire in the next. As regards punishment for this crime in this world, viz. the death penalty, jurists believe that it is justified by an isolated *ḥadīth* collected by Ibn 'Abbās: "The Messenger of God said: "He who changes his religion, execute him"' (al-Bukhārī, *jihād*, 149; *i'tiṣām*, 28; Abū Dāwūd, *ḥudūd*, 1; al-Tirmidhī, *ḥudūd*, 25; al-Nisā'ī, *taḥrīm*, 14; Ibn Māja, *ḥudūd*, 2; Ibn Ḥanbal, I, 217, 283, 323; X, 231). Muslim scholars (ulemas) asked themselves the following questions about this *ḥadīth*: Should only those who abjure Islam be regarded as apostates or does it apply, for example, to a Jew who converts to Christianity? Does this general term apply equally to men and women, the latter to be put to death if they apostasize, just like men, or does it apply only to men? Should the apostate be executed immediately, or first be given a chance to come back to Islam? Is abjuration of apostasy temporary or permanent?

Points of view on these questions may vary, given that many *faqīhs* take the view that the *ḥudūd* cannot be settled by a single *ḥadīth*, and that it is not disbelief in itself that warrants the death sentence, but the fact of fighting against Muslims, attacking them and trying to deflect them from the faith, and that many verses in the Qur'ān reject compulsion in religion (II. 256; X. 99).[5] It is this essential principle of tolerance in Islam that must prevail, and freedom of conscience must thus be guaranteed, as the status of the *dhimmīs* grants them freedom of worship and full enjoyment of their rights.

Where Islam went furthest was in the matter of learning and the free use of our reason. The Islamic faith comprises a pedagogy of learning.

In the field of teaching and learning, the Qur'ān from the outset lays emphasis on learning. The first word of the divine Revelation is 'Read'. The first instrument God mentions is 'the pen'. One of the beautiful names of God is 'the All-Knowing'. The Prophet's mission is to explain: 'And We have sent down /Unto thee (also) the Message; /That thou mayest explain clearly /To men what is sent /For them, and that they /May give thought' (XVI. 44).

5. M. Shaltūt, 1966, p. 74.

The Prophet's house was a school for Muslims. God speaks thus to the Prophet's wives: 'And recite what is /Rehearsed to you in your /Homes, of the Signs of God /And His Wisdom: /For God understands /The finest mysteries and /Is well acquainted (with them)' (XXXIII. 34).

'The signs' are the Qur'ān, and 'His wisdom' the Prophet's explanations and his *ḥadīths*. This is the path adopted by the Companions, and those who came after them regarded learning as a right and a duty. The Most High, teaching His Prophet, asks him to say: 'O my Lord! advance me /In knowledge' (XX. 114).

Islamic civilization has only rarely during its history known the conflict between knowledge and religion experienced by other civilizations. Moreover there is no authority in Islam which decides on the interpretation of texts – even the most sacred ones – and sets itself up as an intermediary between God and man. Specialization in theology is no different from specialization in any other branch of knowledge. It gives the individual the authority of one who knows without being superior to others. He co-operates with others, guiding them and using what they can give him, even in the field of theology. Given this view, 'freedom' of scientific research was guaranteed: and with it was linked freedom to study other civilizations, past and present.

Muslims were accordingly highly receptive to other civilizations, Indian, Chinese, Persian and Greek, but also African or Malaysian according to their geographic proximity. They translated and preserved the heritage of all these civilizations, adapting it and using it as a basis and starting-point for wider horizons. They attributed books to their authors, and praised them in writings devoted to them. They allowed all gifted individuals access to learning. Foundations were set up to encourage scientific progress and scientists. The claims of the *waqfs* (endowments) on the Islamic heritage represent a considerable fortune which guarantees 'the right to learning' and 'security for scholars', giving the latter intellectual independence in the community in which they live or to which they go. This explains the activity of scholars, and the ease with which they moved about and the comfort in which they lived: this had a great influence on contacts, dialogue and the development of scientific interchange.

It may be concluded from this that human rights in regard to learning, thinking, research and expression are considered by Islam to be imprescriptible and to be the precondition for the full spiritual, moral, intellectual, aesthetic and material development of humanity.

Where Islam went furthest was of course in the matter of civil and political rights. The relationship to the state is highly complex. After all, most aspects of it are governed by written laws and by contradictory customs which are so important that we are led to ask these questions: Who rules whom? What is the source of power? What is the relationship between consultation and decision-making, and between the principle of decision-making and the

responsibilities of leadership? For example, rules about systems of government contain brief general principles such as consultation, the prevention of that which is prohibited, and solidarity. It is for society to adopt rules such as give effect to these principles, since the principles are stable and the rules variable.

In Islam the system of political thought is based on consultation and the right of the *umma* (Islamic community) to choose its rulers. Consultation in Islam is vertical and horizontal. The vertical aspect is represented by God's saying:

> It is part of the Mercy /Of God that thou dost deal /Gently with them. /Wert thou severe /Or harsh-hearted, /They would have broken away /From about thee: so pass over /(Their faults), and ask /For God's forgiveness /For them; and consult /Them in affairs (of moment). /Then, when thou hast /Taken a decision, /Put thy trust in God. /For God loves those /Who put their trust (in Him) (III. 159).

The Qur'ān was not then revealed to do away with the right of consultation and expression, nor to give power to one man, but to exhort to forgiveness in word and tongue, forgiveness from the heart, in a climate of kindness and indulgence. The Qur'ān opens the way to voting and deliberation. Once opinions are clear, the leader takes the decisions in a spirit of co-operation and consensus and implements them, placing his trust in God. Deliberation sometimes took place at the request of the Prophet, sometimes at the initiative of the Companions, vertically from top to bottom.

Horizontal consultation is represented by God's description of believers: 'those who deliberate among themselves' in the *sura* entitled 'Counsel'. The verses that follow imply several levels of respect for competence and experience: 'When there comes to them /Some matter touching /(Public) safety or fear, /They divulge it. /If they had only referred it /To the Apostle, or to those /Charged with authority /Among them, the proper /Investigators would have /Tested it from them (direct)' (IV. 83); or again: 'If ye realize this not, ask /Of those who possess the Message' (XXI. 7).

Thus consultation in Islamic society can be regarded as a closely woven fabric, with vertical and horizontal threads (warp and woof), and as part of the way of life in the community.

The Orthodox Caliphs asked to deliberate with those around them, and gladly deliberated when asked to, consultation thus being a right and a duty. Thus the first caliph, Abū Bakr, declared after being chosen: 'O you people, I have been chosen to lead you, but I am not better than you. If I do well, support me, and if I do badly, correct me. Obey me in so far as I obey God; If I disobeyed God and His Prophet, I would have no right to your obedience.'[6]

6. M. al-Kandahlawi, 1974, IV, pp. 267–9.

'Umar was the first ruler to be given an expense allowance by his subjects.[7] He was an employee of the Muslims, and he gave them the right to determine his allowance. This remuneration gave rise to a brief discussion in which the more senior of the Companions took part. In carrying out the task they had entrusted to him, he sought their opinions, their advice and their appraisals.

'Umar Ibn al-Khaṭṭāb's words stress the dignity of the individual in Islamic society. The individual's relationship with the government and its agents is based not on humiliation and repression but on respect for the dignity of a human being whose life is safe whatever the opinions he expresses. 'Umar asks the Muslims to report to him any errors by his agents; in this way the *umma* keeps a check on the government's agents. This right was confirmed, not initiated by 'Umar. In addition, he affirms the right of individuals to a family life: soldiers stayed at their post for a given time only, and then went home. He considers that the deprivation of rights leads to disbelief, of which society and its organization are the victims, and he strictly forbids it.

Methods of consultation, the arrangements for it, and its scope and prospects were left by the *shari'a* to evolve according to circumstances: thus nowadays specialist scientific councils, single-chamber or two-chamber parliaments (senators and deputies), a free press, scientific associations and universities are all institutions that can play a part in decision-making, in utilizing skills wherever they are found and exploiting them, and in building up larger and larger groups of men with the habit of constructive dialogue and rational expression.

Political rights are not for domestic use only. They also have an international dimension. The question of individual rights should not obscure that of the collective rights of peoples, nor vice versa. In Islam – and indeed in themselves – the two types of rights are by no means contradictory.

Accordingly, in both Islamic theory and practice, peoples' rights have received a considerable amount of attention. In a word, Islam establishes a right to self-determination. If a people's safety is in danger, the Qur'ān gives it the right to defend its land, its existence and its fate and authorizes it to use arms. God says:

> To those against whom /War is made, permission /Is given (to fight) because /They are wronged: – and verily, /God is Most Powerful /For their aid: – /(They are) those who have /Been expelled from their homes /In defiance of right, – /(For no cause) except /That they say, 'Our Lord /Is God.' Did not God /Check one set of people /By means of another, /There would surely have been /Pulled down monasteries, churches, /Synagogues, and mosques, in

7. Ibn al-Athīr (Majd al-Dīn), 1965, II, p. 424.

which /The name of God is commemorated /In abundant measure. God will /Certainly aid those who /Aid His (cause); – for verily /God is Full of Strength, /Exalted in Might, /(Able to enforce His Will) (XXII. 39–40).

Thus we have a complete account: unjust oppression that befell the Muslims at Mecca, their emigration to Medina, the confiscation by the polytheists of the believers' goods, the emigrants' right to self-defence and the right of return. It was not a return with a view to vengeance, but a return illustrating the triumph of the law and respect of the *ḥudūd* enjoined by the Qur'ān and applied by the Prophet. In another *sura*, the Qur'ān exhorts us to 'defend the right': it makes it not an option but a religious requirement and a vital necessity for individuals and groups, which has its recompense in this world and the next (IV. 75).

The Qur'ān urges us to defend the 'right' of the weakest among men, and women and children, who suffer unjust oppression and cannot defend themselves. It makes this defence a 'duty' of the stronger towards their brothers.

Thus the 'right' to self-determination is extended to be a 'duty' of the powerful, wherever he may be. This close link (between Mecca and Medina in the story) represents 'military solidarity', which is not an empty expression. The Muslims' power had the effect of 'deterring' the Quraysh, avoided the spilling of Muslim blood and opened the road to faith to the people of Mecca. 'Might' was in the service of 'right', as shown by what the Prophet said to the people of Mecca when he asked them: 'What do you think I am doing to you?' They said: 'Good. You are a brother and a noble nephew.' To which he replied: 'Go, you are free men.'[8]

The use of force is subject to rules. Here are some of the Prophet's instructions to the commanders of his armies in wartime: 'Go in the name of God and for God. Do not kill an old man, nor a child, nor a woman, nor a slave. Do not pillage, do not betray and do not maim. Be charitable, for God loves those who are charitable.'[9] The object of these commands was to avoid bloodshed when the Muslims were obliged to make war.

Before any battle the army gave the enemy three options: to embrace Islam, to make a treaty or to fight. A treaty was in itself merely a joint action for 'peaceful coexistence', according to the politicians and writers of the time.[10] The authorities insisted that army commanders should repeat this invitation whenever they went into battle or encircled the enemy.

Qutayba Ibn Muslim entered Samarkand by treachery without giving its people the choice between the three options. They complained to the Com-

8. Muslim, 1976, III, p. 941.
9. Ibn al-Athīr (Majd al-Dīn), 1976 *et seq.* These instructions are from a set of *ḥadīths* quoted in this work according to Burayada (III, p. 201, No. 1073) and Anas (III, p. 207, No. 1076).
10. M. Abū Zahra, 1965, p. 48.

mander of the Faithful, 'Umar Ibn 'Abd al-'Azīz, who asked a judge to decide on this dispute between them and Qutayba. The judge ordered that the Arabs of Samarkand should go back to their camps and that Qutayba should declare war on them again, so that there should be a new reconciliation or a victory by force. But the people said: 'We prefer what happened, rather than renewing the war.' So they compromised, and the wise men said: 'We know these people and have lived with them. We have trusted them and they have trusted us. If judgement is given in our favour the war will start again, and we do not know who will win. If we are defeated, it is our attitude that will have brought a new ordeal upon us.' They left things as they were, arrived at an agreement and did not renew hostilities.[11]

Islam gives individuals the 'right' to move to escape injustice and oppression, and calls on well-to-do societies to accept refugees. The Islamic world has offered its hospitality to non-Muslims without compelling them to embrace Islam. It has given them an opportunity to live, work and benefit from progress. Islamic society allows Christians, Jews and Zoroastrians to specialize in the various branches of knowledge. This attitude stems from Islam's faith in the individual's right to life, work, movement and safety. Contemporary laws have built this right into a system, whose Islamic base can be regarded as one of the pillars of human rights. All God's servants are brothers.

To the foregoing texts about universal human brotherhood we should add the Prophet's profession of faith, fervently praying to his Lord at the end of the night: 'My God, I bear witness that You are God, that there is no God but You, and that all Your servants are brothers.'[12]

Islam's guideline, viz. to open the way and level obstacles in the way of men and knowledge, at international level, is in accordance with God's command to progress on earth and seek knowledge and a just and lasting peace. Accordingly, the peace treaty of Ḥudaybiyya, in year VI of the Hegira, was respected by the Muslims: it helped the peaceful expansion of Islam and religious freedom. But the tribe of Quraysh broke the treaty, which led to the Islamic army marching on Mecca and completing by conquest that which the call had started.

The Qur'ān invites Muslims to keep their promises: 'O ye who believe! /Fulfil (all) obligations' (V. 1). This holds good at all levels: state, group and individual. The Qur'ān next turns to respect for the life and thinking of individuals: 'If one amongst the Pagans /Ask thee for asylum, /Grant it to him, /So that he may hear the Word /Of God; and then escort him /To where he can be secure. /That is because they are /Men without knowledge' (IX. 6). Respect for oneself, respect for others, respect for promises and re-

11. Al-Ṭabarī, 1960, VI, p. 568.
12. Abū Dawūd, 1965, II, p. 174, according to Zayd Ibn Arqam.

spect for treaties all go together. The individual thus lives in peace with his Lord, with himself, with his community and with his brothers, his fellow human beings.

The first thing that comes to mind when considering rights at the international level is relations between two states, one or both being Muslim. Relations between individuals who move from one state to another come within this broad framework.

In the beginning, the territory of Islam was limited as regards area, size and frontiers. The Islamic state was founded at Medina, and then spread to the Arabian peninsula. Until the end of the Umayyad period it remained centralized, except for some areas where certain ideas and groups took refuge, preferring to live in isolation, or raised armies against the state, not recognizing its caliphate. In peacetime and in war political unity largely governed the territory of Islam, and also its relations with its neighbours, by virtue of treaties respected by the parties so long as the will to coexist was sincere. When political unity disintegrated, individual freedom of movement and settlement survived, as though everyone could live in the 'protection of the faith' and 'human dignity'.

It is in this light that we can read the Prophet's treaties, starting with the treaty of Medina in year I of the Hegira, which regulated relations between Muslims and non-Muslims at Medina, under the command of the Prophet.

Alongside these political rights, the *fiqh* deals with civil rights. Equality is again here the basic principle that leads to the presumption of innocence and the mechanism of judicial proof. We may say that every member of Islamic society has the right to a fair trial.

The codification and implementation of the above-mentioned rights and duties centre on the notion of equality: first between individuals themselves, then between individuals and groups on the one hand and organs of government on the other.

Trial is the settlement of a dispute by a binding decision emanating from a public body in accordance with the Qur'ān and the *sunna* (XXXVIII. 26; V. 48; IV. 58).[13] The Prophet was the first *qāḍī* (judge) in Islam. He himself dispensed justice, entrusting it to his *wālīs* (prefects) and Companions in the case of certain rights. Abū Bakr followed the Prophet's tradition in this field. When in the reign of 'Umar Ibn al-Khaṭṭāb the burden of the caliphate and the provinces grew heavier, he appointed judges in the main towns. The caliph had to deal with the issue personally, since there were no texts about judges either in the Qur'ān or the *sunna*. Then 'Umar wrote a letter to Abū Mūsā al-Ash'arī which is a charter of justice and one of the most important Islamic documents, proclaiming the right of individuals to a fair trial:

13. A. Musharrafa, 1966, p. 74.

> The exercise of justice is a well-established religious duty and a respected tradition. Try fully to understand the statements made to you, since it is pointless to state the law and not implement it. Make peace reign between people by your attitude, your fairness and what you say, so that the powerful do not seek your injustice and the weak do not despair of your justice. Reconciliation is possible between Muslims, but it does not permit what is forbidden or forbid what is permitted. A judgement you gave yesterday and revise after finding your lucidity and good sense again does not stop your returning to the truth. It is better to return to the truth than to persist in error. Submit matters not dealt with in the Qur'ān or the *sunna* to your intuition. Know the precedents and reach an opinion on the facts.[14]

The Qur'ān and the *sunna* emphasize the sanctity of 'justice', and it is in the light of this that individuals guard their rights and do their duty, viz. to preserve and disseminate justice. This concern is seen in the way investigations are pursued: with respect for the 'humanness' of the human person without constraint or humiliation, thoroughly investigating the motives behind the crime or offence, determining responsibility without stopping at appearances, and giving the parties an opportunity to express their points of view.

A model of the thorough investigation of motives was the one carried out by 'Umar Ibn al-Khaṭṭāb. He related that young men employed by Ḥāṭib Ibn Abī Balta'a had stolen a camel from one of the tribe of the Muzayna. The latter brought them before 'Umar. The boys admitted their theft, and 'Umar sent for Ḥāṭib and told him of this confession: he then ordered the young thieves' hands to be cut off. But when they complained, 'Umar sent them away and said: 'By God, I would have cut off their hands had I not known that you exploit and starve them so that they are only allowed to eat what God has forbidden.' So 'Umar did not have the thieves' hands cut off, and ordered that Ḥāṭib should pay the price of the camel, since by starving his young employees he had made himself directly responsible for the theft. Privation is an incitement to theft.[15]

In the matter of justice, the liberal point of view has prevailed. True to the teachings of the Prophet, who recommended taking no action in cases of doubt, the practice has remained: 'Take care as far as possible not to apply criminal penalties (*ḥudūd*) to Muslims. If you see a way out for a Muslim, leave him in peace. It is better for an imam to be wrong by forgiving than by punishing' (al-Tirmidhī, *ḥudūd*, 2).

In addition to these civil and political rights, Islam identifies other economic, social and cultural rights, namely, the right to found a family, the right

14. Ibn al-Qayyim al-Jawziyya, *I'lām al-muwaqqi'īn*, n.d., Beirut, Dār al-Fikr, I, pp. 58–86. Ibn al-Qayyim explains this text in detail.
15. *Ibid.*, III, p. 22.

to health and the right to food, clothing, housing and to all that we understand by well-being or social security. The reader will find full details of these rights in other chapters of this book. Let us look more particularly here at two that this writer considers significant: the right to health and the right to work, which have been recognized as such in the modern world only very recently but are basic to Islamic society. In Islam they are essential aspects of social solidarity. Justice as an absolute and total value would be worthless if it did not result in social justice.

The Qur'ān therefore couples the right of God with the right of the poor. It calls for the observance of these rights, and warns against infringing them. *Zakāt* (alms-giving) is one of the five pillars of Islam. It is a link between man and his brothers. In works on *fiqh* (Islamic jurisprudence), the book on *zakāt* comes second, after ritual prayer but before fasting. Amounting to 10 per cent not only of one's income but also of one's wealth, it benefits 8 types of recipients: 'Alms are for the poor /And the needy, and those /Employed to administer the (funds); /For those whose hearts /Have been (recently) reconciled /(To Truth); for those in bondage /And in debt; in the cause /Of God; and for the wayfarer: /(Thus is it) ordained by God, /And God is full of knowledge /And wisdom' (IX. 60).

The rule is clearly enjoined to collect alms from the comfortably-off in order to share them out between those for whom they are intended (IX. 103; LI. 19). At other times alms give rise to a warning against miserliness and the withholding of help, which the Qur'ān equates with neglect or the late performance of the ritual prayer: 'What led you /Into Hell-Fire?' /They will say: /'We were not of those /Who prayed; /Nor were we of those /Who fed the indigent' (LXXIV. 42–44).

Jurists have extended the 'right of the poor' and 'society's right' to sums over and above the *zakāt* if the public interest requires it in the light of social justice, without prejudice to the rights of the rich and without humiliating the needy. This could only be done by exhorting the comfortably-off to be more generous, especially in difficult times such as famine, drought or war, the ruler organizing this to preserve society as a whole. This is a collective responsibility which necessarily takes precedence over normal rights and duties.

The following is part of the instruction which Imam 'Alī Ibn Abī Ṭālib sent to al-Ashtar al-Nakha'ī when he appointed him to take charge of Egypt and its administration:

> Fill your heart with mercy, love and goodwill towards your subjects. Do not be for them a wild beast grabbing their food. They are of two types: your brothers in religion, and your equals in creation. They err inadvertently, and are liable to weaknesses. Give them pardon and forgiveness as you would wish God to grant you pardon and forgiveness. All bear the burden of land taxes and tax-collectors. But be more concerned with developing the land than with ways of collecting tax, since the latter is only productive if the land is developed. Anyone

who requires taxation without development destroys the country and his subjects, and his rule will be shortlived.[16]

Here let us dwell on two points: the responsibility of the governor to the *umma* as a whole, and concern with developing the land, i.e. increasing production. Mutual social responsibility in Islam is not an invitation to apathy and reliance on the state. It is positive solidarity practised by the comfortably-off according to their abilities and means. To express this the imam uses a concise expression: 'And in God there is accommodation for everyone; and for everyone, from the *wālī*, rights equal to his good deeds.'[17]

As for the definition of the needs and what is liable to improve the condition of the individual, this is set out in detail in books on *fiqh*. Ibn Ḥazm thought that these needs included (over and above the need for food and drink) winter and summer clothing, housing, a mount to carry anyone who is weak, a guide for the blind, etc. He saw these as 'rights' which individuals could claim from the *wālī*, which the latter was obliged to enforce, and which could be the subject of legal proceedings against him.[18] But we must always remember that Imam 'Alī says: 'Be more concerned with developing the land than with ways of collecting tax.'

Islam's view of mutual social responsibility is comprehensive. It covers education, preventive and curative medicine, psychology and finance. It stems from the view of man as a specific individual who co-operates with the members of his community, giving and taking, and with whom he assumes a joint responsibility.

Let us dwell for a moment on the right to health. Just as faith frees man from uncertainty, doubt and psychological and metaphysical fear of the unknown, so Islam wishes to free man from fear and disease. For these various types of disease the Qur'ān and the *sunna* offer treatment; and Islam calls for the freeing of the individual from them by all possible means, meeting intellectual deviations with dialogue, moral derangements with advice and the strengthening of the individual's will to overcome weaknesses, and health problems with prevention and therapy. By a combination of these means it is possible to treat all these ills. The Prophet urged Muslims to seek medical care: 'O slaves of God, use medicine, for God did not send any disease to earth without its cure, except for one disease. They asked "What is that?", and he replied "Old age".'[19] In

16. *Nahj al-balāgha*, compiled by al-Sharīf al-Rāḍī. Commentary by Sheikh Muḥammad 'Abduh, III, p. 96. This instruction is one of the most comprehensive Islamic documents about public administration and the relationship between governor and governed.
17. *Ibid.*, p. 91.
18. Ibn Ḥazm, 1927–1932, VI, pp. 156ff.
19. Reported by Imam Aḥmad according to Usāma Ibn Sharīk. See Ibn al-Qayyim al-Jawziyya, 1977, III, p. 66.

another *ḥadīth*: 'God has not sent any disease to earth without its cure, known to those who know it and unknown to those who do not.'[20]

The Prophet himself took care of his health, and that of his family and Companions, to whom he gave advice on prevention and diet and also on the use of medicines to treat external and internal illnesses.

Thus members of the community had the 'right', and indeed the duty, to have enough doctors and means and places for treatment. Thus in the community, medicine was a 'collective duty' (*farḍ kifāya*) and any member of society who practised it was exempt from any other responsibility.

The attention given to this field was limited because of the size of the original community, but it grew with the expansion of the community, the advancement of knowledge and the diversification of medical methods and services. In the archives of the *waqfs* in particular a wealth of scientific material is to be found about these services, the religious and humanitarian motives that led to their development, and the scope of their aims.

An example is the *bīmāristān* set up by Sultan Qalāwūn in Egypt. He opened it in 1248, and made it a *waqf* for the use of kings and mamelukes, soldiers and princes, the exalted and the lowly, freemen and slaves, and men and women.[21] It was a public hospital where all diseases were treated free of charge. It comprised two sections, one for men and the other for women. There were specialist wards for internal medicine, surgery, ophthalmology, orthopaedics, etc. Each section had its medical staff. In another part of the archives of the *waqfs* there is a list of the services provided for patients by the *bīmāristān*.

In addition, patients enjoyed a period of rehabilitation before being discharged; and attention was paid to their psychological state, ways of improving their morale and helping them to get over the acute stages of the illness, and then care at home if it was preferable for the patients to be with their family.[22]

There were other similar institutions in the Islamic world. Medical care is important in the Islamic world to this day, although it varies from country to country according to the economic level and the facilities that can be provided for nationals and visitors. Though this assistance stemmed originally from humanitarian feelings on the part of rulers and leaders, nowadays it is a right and a duty governed by laws and demanded by the people, and is one of the responsibilities and institutions of the modern state.

The right to work is just as essential: something has already been said on

20. *Ibid.*
21. M. A. Amīn, 1980, p. 159. The book studies the Mameluke period in Egypt up to the beginning of the Ottoman period.
22. *Ibid.*, p. 169. The archives of the Qata'ūn *waqf* contain many details about the various forms of charity and humanitarian treatment enjoyed by the various social strata.

Capitulation treaty concluded between Suleiman I (son of Sultan Selim) and the Republic of Venice, dated 3 October 1540, Constantinople

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this in connection with mutual responsibility and the need to give 'development' precedence over the collection of 'taxes'. Development here covers both individual and collective levels. Work, the prime way of earning a livelihood, is a command from God: 'And say "Work (righteousness):" Soon will God observe your work, /And His Apostle, and the /Believers: /Soon will ye be brought back /To the Knower of what is /Hidden and what is open: /Then will He show you /The truth of all that ye did' (IX. 105).

The Prophet himself worked at various jobs; he was a shepherd in his youth, and engaged in trade. After the Hegira he took part in many manual and intellectual activities: the building of the holy mosque, teaching, the development of society and the command of the army. He gave help and support to his family (XXX. 21).

Work in Islam is both a right and a duty. God praised the prophets who worked. To Noah he said: 'But construct an Ark /Under Our eyes and Our /Inspiration' (XI. 37). Islam considers that work brings man closer to God and opens the way to reward, not to mention the advantages it brings to the individual and his family. A *ḥadīth* says: 'He who works and gets satisfaction from it is like Moses' mother. She breast-fed her child and was rewarded for it.'[23]

When it comes to remuneration, a worker is subject to four rules: if his earnings exceed his needs, he must pay excess alms, *zakāt*; if they are equal to his needs, he owes nothing and is owed nothing; and if he is hard up, the state makes suitable provision for him. Finally, when he gets old the state will be responsible for him and his family. A *ḥadīth* says: 'I am closer to any believer than anyone in this world or the hereafter. The Prophet is closer to believers than they are to one another. If a believer leaves wealth, let his male kin receive this inheritance. But if he leaves debts or losses, let him come to me, for I am his guardian.'[24]

At this point in our discussion it must be stressed how far these rights are 'absolute' values, valid in all places at all times. However this equality in theory should not obscure the fact that, in practice, societies being what they are, violations frequently occur and that while the powerful are the very first to enjoy their rights, the oppressed do not always find it easy to assert theirs. For that reason, *fiqh*, guided by the Qur'ān and the *sunna*, has provided for greater protection for the most vulnerable social groups (*mustaḍ'afūn fi'l-arḍ*): children, women, the poor, foreigners, orphans, students, travellers, the elderly. The special measures laid down for them are not 'negative infringements' of the principle of equality, but 'positive infringements' designed to restore rights that have been violated in the ordinary course of life. By virtue

23. See Ibn Kathīr's interpretation of XXVIII. 13.
24. Reported by al-Bukhārī according to Abū Hurayra. See Ibn Kathīr's interpretation of XXXIII. 6.

of the principle of fraternity, 'women are men's sisters' and, likewise, non-Muslims in Islamic lands are the guests of their Muslim brothers. Although a separate chapter is given over to the problem of minorities, we propose to look particularly here at the rights of non-Muslims in Islamic countries.

Two terms need first to be defined. *Dhimmī* denotes any non-Muslim who lives in an Islamic society and whose security and rights are guaranteed. *Musta'min* is applied to any non-Muslim who lives for a given period in an Islamic society. He is a visitor, and if he settles he becomes a *dhimmī*.

The *dhimma* is thus an open-ended contract under which non-Muslims are guaranteed an opportunity to retain their religion and enjoy the protection of the Muslim community. Those who can afford it contribute to state expenditure by paying the *jizya*. They are also required to observe Islamic law in all non-religious matters.[25]

The basis of non-Muslims' rights and duties is to be found in the following verses:

> God forbids you not, /With regard to those who /Fight you not for (your) Faith /Nor drive you out /Of your homes, /From dealing kindly and justly /With them: for God loveth /Those who are just. /God only forbids you, /With regard to those who /Fight you for (your) Faith, /And drive you out /Of your homes, and support /(Others) in driving you out, /From turning to them /(For friendship and protection). /It is such as turn to them /(In these circumstances), /That do wrong (LX. 8–9).

The non-Muslim in Islamic society is entitled to citizenship and the nationality of the Islamic state in which he lives. He is entitled to protection by the latter against any aggression, be it internal or external. The Prophet said: 'He who treats a protected person unjustly, infringes his rights, over-burdens him or takes something from him against his will, I will be his accuser on the Day of Judgement.'[26]

Imam 'Alī Ibn Abī Ṭālib says: 'They pay the *jizya* so that their money and their blood may be worth as much as ours.'[27] They enjoy religious freedom. Thus Abū Yūsuf recalls in the *Kitāb al-Kharāj* that in the days of the Prophet 'the people of Najrān (were) under the protection of God and His Prophet. Their possessions, their observances and their trade (were) guaranteed, however large or small.'[28] In this connection we may quote the historic document by which 'Umar Ibn al-Khaṭṭāb committed himself to the people of Ilyā' (Jerusalem):

25. A. Zaydān, 1982, pp. 22ff. This is the best work of reference on the subject.
26. Ibn Qudāma, 1922–1930, p. 497.
27. Abū Yūsuf, 1985, pp. 191–2. The book contains the complete text of the treaty and of the pacts made by the four Orthodox Caliphs with the Christians of Najrān, up to p. 197.
28. A. Zaydān, *op. cit.*, p. 155.

> These are the guarantees that God's servant 'Umar, Commander of the Faithful, gives to the people of Ilya': security for themselves, their possessions, their churches, crosses and religious paraphernalia is guaranteed. Their churches will not be taken over for accommodation, destroyed or damaged; the goods, crucifixes and objects therein will be protected, as will personal possessions. No one will be forced to change his religion or harmed in any way, and they will not be forced to live together with the Jews.[29]

Guarantees were also given to non-Muslims who were sick, to the old and to the poor.

Under the caliphate of Abū Bakr al-Ṣiddīq, General Khālid Ibn al-Walīd inserted the following clause in the *dhimma* agreement granted to the inhabitants of al-Ḥīra in Iraq, who were Christians: 'I have given them the following guarantees: any old man who cannot work or is ill or an invalid, even if he became poor after being rich, and who depends on the charity of his co-religionists, will have his *jizya* waived and provision made for him and his dependants from the Muslims' treasury.'[30]

'Umar Ibn al-Khaṭṭāb one day saw an old Jew reduced to begging. When he asked him why, he learnt that it was due to old age and need. 'Umar took him to the accountant in the Muslims' treasury and ordered him to meet the needs of the old man and others in his position. Commenting on his gesture, 'Umar said: 'We would not be doing him justice if we collected the *jizya* from him when he was young and abandoned him to his lot now he is old.'[31]

The right to social security in Islam is thus guaranteed to all citizens, whether Muslims or non-Muslims. They all have the right to earn a living, to work according to their abilities, and to knowledge. These rights are guaranteed throughout life.

Like Muslims, *dhimmis* are entitled to be civil servants. The only positions not open to them are those with a religious aspect, such as that of head of state, command of the armies, judging between Muslims and guardianship of funds. Apart from these, appointments are based on ability and honesty.

Muslim jurists distinguish between 'authorized' ministries, where the imam empowers the holders of the office to make political, administrative and economic decisions, and 'executive' ministries, where the office-holders trans-

29. Al-Ṭabarī, 1960, III, p. 609.

30. Abū Yūsuf, *op. cit.*, p. 306. The text of the contract drawn up by Khālid clearly shows the scope of the concept of *dhimma*, and also that the Muslim treasury took from and gave to the *dhimmis*. At the end of the contract Khālid Ibn al-Walīd says: 'We made them pay a tax to the Muslim treasury, so that if they ask for assistance it may be provided,' p. 307.

31. *Ibid.*, pp. 278–9; see also in this chapter what the author says about the rules and principles of tolerance governing relations with the *dhimmis* and the rights guaranteed them by Islam, pp. 268–79.

mit the orders of the head of state, see to their implementation and countersign the decisions he has taken. Al-Māwardī in *al-Aḥkām al-sulṭāniyya* [Governmental Statutes] considers that it is permissible for a *dhimmī* to be in charge of an 'executive' ministry but not of an 'authorized' ministry.[32] As regards specialist professions (doctors, engineers, architects, etc.), suffice it to refer a book such as *Ṭabaqāt al-aṭibbā'* [Categories of Doctors] to see the scope offered to *dhimmīs* to study in the medical field and reach the highest posts, enjoying the confidence of rulers and the common people.

As regards the *jizya* (poll tax), from a civil point of view it implies submission to the authority of the Islamic state. From a military point of view it takes the place of military service. According to Adam Mez: '*Dhimmīs* enjoyed the tolerance and protection of Muslims, and for this paid the *jizya* each according to his means. This tax was like a national defence tax; as such it was only paid by able-bodied men and not by the disabled, priests or monks unless they were wealthy.'[33] The *jizya* was waived if the Muslims could no longer give protection to the *dhimmīs*, or if they took part together with the Muslims in the defence of the country.

Apart from the *jizya* and the *kharāj*, which are the counterpart of the *zakāt* paid by Muslims, the state can levy such taxes as it needs to carry out its responsibilities. As we said earlier, if the public interest under certain circumstances requires an increase in taxes (payable by Muslims and non-Muslims) over and above the *zakāt* (which is paid by the people and returns to the people), the government may take such a step.

At the conclusion of this study, we may wonder what the main points of agreement are between human rights as defined in international texts (particularly the Universal Declaration of Human Rights) and the Islamic view of rights; and also what the special features of the Islamic conception of this problem are. On key points there is a noteworthy Islamic message. The general concepts, flowing as they do from religion, nature and reason, cannot but be shared.

This point of view has been well summarized by Imam al-Shāṭibī, who identifies five basic objectives of the *shari'a* which underpin spiritual and temporal interests. Any failure in these objectives is liable to harm temporal interests. To preserve the latter, they must first be based on solid foundations: then anything liable to injure them must be disposed of. The five basic objectives are the preservation of religion, the person, descendants, possessions and reason. Al-Shāṭibī next expands his conception so as to examine the 'requirements' imposed by these objectives. Lastly he goes on to an even wider field

32 Al-Māwardī, *al-Aḥkām al-sulṭāniyya*, Cairo, al-Maḥmūdiyya al-Tijāriyya, pp. 24–5.

33 A. Mez, *al-Ḥaḍāra al-islāmiyya fi'l-qarn al-rābi' al-hijrī* [Islamic Civilization in the Fourth Century A.H.], translated from German into Arabic by Muḥammad 'Abd al-Hādī Abū Rīda, Cairo, Lajnat al-ta'līf wa'l-Tarjama wa'l-Nashr, I, p. 96.

which he calls the 'improvements' and which concerns the field of practical action.[34]

We can select from his masterly account the idea that the field of rights can be infinitely widened and their level infinitely raised, as life develops and widens its horizons and human progress is affirmed.

These five objectives are hardly different from the rights enunciated in modern conventions, particularly human dignity and brotherhood, the expansion of the scope of life, the removal of obstacles to man's full development, equality for all before the law, without discrimination on grounds of religion, colour, social class or nationality, and an opportunity for every culture to develop in tolerance and without coercion. Hence agreement and unanimity exist, and Islam is part of the universal consensus.

The fact remains that Islamic doctrine on human rights has its own special features, which need to be stressed. It recognizes these rights not only in a worldly context, i.e. in terms of men's relationships with their equals and with the environment. It elevates rights by strengthening them by faith in God, and makes respect for them a religious duty and the extension of their application a cultural norm. These rights thus have their place and their reward in this world and the next. They are of heaven and earth, of the world and beyond it.

Hence any departure from these rights is a religious lapse as well as a lapse from worldly duties. For example, every man has the right to be educated. Society for its part is entitled to combine the skills needed for its existence and development. In Islam, an individual must acquire such knowledge as will improve his life. Specialist sciences are 'collective' duties in the sense that once people fitted for them have learnt them they are no longer a duty for the remainder of society. But if a society collectively failed in this duty, it would be erring *vis-à-vis* religion, not to mention the backwardness it would inflict on itself as a result of this gap.

When Islam proclaims freedom of religion ('Let there be no compulsion /In religion', II. 256), it sees belief in God as a natural tendency of human beings, who have the 'right' to accept it and achieve it without being compelled. Of those who do not believe in Islamic dogma, Imam Maḥmūd Shaltūt says:

> To tell whether a given person is an unbeliever, you need to see whether he rejects Islam, in whole or in part, after receiving the true Islamic faith and believing in it sincerely; then the rejection is ascribable to obstinacy or pride. But somebody who has not received the faith, or has received it in an unacceptable form, or has received it in its true form but without having the necessary intellectual faculties, or had these faculties but died without completing the process

34. Al-Shaṭibī, 1970, II, p. 128.

> of thought leading to faith, is not regarded as an unbeliever doomed to eternal hell-fire. [Imam Shaltūt continues]: The polytheism mentioned in the Qur'ān and which God cannot forgive is that which stems from obstinacy and pride.[35]

In Islam it is not conflict between the people and those who govern them that leads to achieving these rights. They are natural and imprescriptible. Their sacred nature makes their protection the responsibility of both the people and the government. Thus it was that after the Prophet's death in 11/632 and Abū Bakr's nomination as caliph, many Arab tribes rejected Islam and refused to pay the *zakāt* (the tax taken from the rich and given to the poor). Abū Bakr made war on them, his main goals being the preservation of the unity of the Muslims and the defence of the rights of the poor. These goals were complementary because these rights were guaranteed in unity.[36]

It is thus evident that in Islam the rights of man link religious questions with the people's will and the responsibility of rulers. The combination of these three features is one of the aspects of the unity of Islam, which aims to eliminate contradictions and improve society so that the rights can be practised in it, to everyone's advantage. Then brotherhood between men can grow and flourish. Then it can assure its full significance. Thus Islam has a major role to play in today's world and can make a decisive contribution to the triumph of human rights.[37]

35. M. Shaltūr, 1975, pp. 19–20.

36. Al-Ṭabarī, 1960, III, p. 245. This book contains a detailed study of the aims, course and consequences of the wars against the apostates, which brought about the birth of a unified Muslim state, with clear aims. See also Ibn Hishām, 1955. The Medina Constitution was the first Islamic Constitution (I, pp. 501ff.). On the farewell address, see II, pp. 603ff.

37. Islamic Conference Organization: Fourteenth Conference of Foreign Ministers of Islamic States (Dhaka, December 1983). This conference drew up the Islamic Charter of Human Rights, which was to be submitted to the fourth Islamic Summit (Casablanca). The adoption of this document was deferred so that the question might be given further study.

Chapter 16

EVERYDAY LIFE IN THE CITIES OF ISLAM

Muḥammad Talbi

It was Ibn Khaldūn's opinion – unlike the case with other Arab historians who either came before him, were his contemporaries or have written since his time down to the beginning of the present century – that history does not repeat itself. Instead it is a creative movement, involving continuous change: 'A hidden pitfall in historiography is disregard for the fact that conditions within the nations and races change with the change of periods and the passing of days.'[1]

While change was admittedly much slower and far less perceptible in the medieval or classical periods of concern to us here than it is today, still the social fabric, or habits of daily life, were no mere matter of monotonous repetition, as if fixed and settled once and for all. For life itself is a process of birth, growth and death. Ideas evolve and customs come to light and then die out, meanwhile passing through all the stages in between, from development to decay.

Hence tackling the issue of daily life in the Islamic city is something of a thorny proposition. For to carry out an investigation in depth with anything like scientific accuracy, both time and place must be rather sharply pinpointed. The medieval Islamic world stretched not only from the Gulf to the Atlantic, but indeed from one ocean to another – that is, from the Atlantic as far as the Pacific. For Islam was present in China, in the Indonesian archipelago, in the Indian subcontinent and in sub-Saharan Africa. Nor did any single way of life prevail throughout all these lands. Thus certain areas were brought within the fold of Islam only at the very close of the medieval period, while others – such as Sicily and Spain – were snatched away even before the age came to an end.

1. Ibn Khaldūn, *al-Muqaddima* [Prolegomenon], introduction to Book One, vol. I, p. 56. All quotations and page references given in this chapter are taken from the Franz Rosenthal translation of Ibn Khaldūn's work, *The Muqaddimah. An Introduction to History*, 1958. There are numerous Arabic editions of this classic work.

We ought therefore to stress at the outset that we propose strictly to limit our study to those conditions applying only to the Arabic-speaking portions of the Islamic world. Moreover we retain for consideration only those manifestations of daily life, and matters of use and wont, which appear to us to have been truly shared throughout all parts of this vast domain. For here, that is, in this specifically Arabic-speaking part of the Islamic world, and whatever changes might be observed between this or that district or whatever modifications occurred over successive periods, Muslim traits of daily life, especially in the broader outlines, did indeed come to stamp what has truly made up a particular identity: one which the Arab-Islamic world has continued to recognize, down to this day, in the mirror of its own past. Louis Gardet, for example, points out:

> Anyone who has lived for any time at all in the Islamic world, and in any way paid attention to some of its collective manifestations – whether from the past or from the present – will have observed two salient facts. To begin with, a very powerful bond links Muslims to one another – and this is what truly makes up a community. And then, this is indeed a community which enjoys a very keen awareness of itself as such.[2]

Gardet further adds:

> A mentality corresponds to the reflection of a group's collective life within the consciousness of each particular member of this same group. It follows, then, that an individual's 'mentality' is predicated on this individual's belonging to such a group – say, a culture or civilization – whose membership this individual accepts, and in which he or she moreover usually takes pride. A mentality, then, is a specific view of the world, one which, in turn, dictates the pattern of everyday behaviour.[3]

Now, such a view of the world 'which, in turn, dictates the pattern of everyday behaviour' is what makes up an identity. And such an Arab-Muslim identity, linking one generation to the next throughout the medieval period, and, in space, reaching from the Maghrib (Arab West) to the Mashriq (Arab East), is what we have attempted to delineate here. Moreover, as far as possible, we have tried to let the texts speak for themselves.

THE SOCIAL FRAMEWORK OF EVERYDAY LIFE

Everyday life unfolded within the framework of a society deeply aware of its own underlying unity, whatever the number of political entities into which it happened to be fragmented. This was a society which knew no passports,

2. L. Gardet, 1961, p. 193.
3. L. Gardet, 1977, p. 19.

visas or identity cards to determine one's 'nationality'. Moreover such awareness of unity has endured. I well remember how, as a child, I spontaneously said to my teacher, a Frenchman, when he asked me about my nationality: 'I am a Muslim.'

Travel was unhindered and frequent, given the means available at the time. Every Muslim was aware of finding himself at home wherever he might go in the Islamic world. He might attain the highest rank or office in the administrative apparatus of any ruling state without any need to acquire the 'nationality' of this state: nor, indeed, would he even have understood what 'nationality' meant, for this very notion – which we have adopted from the West and for which we have had to coin the most appropriate term – was one which would have been devoid of sense for anyone in this period. Thus, for example, Ibn Khaldūn (732–808/1332–1406), who stemmed from a Spanish lineage ultimately going back to Arabian Ḥimyaritic stock, travelled between the capitals of the Arab West and East alike, taking up high office successively in Tunis, Fez, Granada, Bougie, Tlemcen and Cairo. The explorer Ibn Baṭṭūṭa (703–779/1304–1377), on leaving his native Maghrib, travelled the entire length and breadth of the Islamic world – including India, China and sub-Saharan Africa – without ever once being aware of visiting 'foreign' countries. The reason for this was that one's affiliation then was not based on geography – as is the case today – but on religion. A medieval Muslim hardly pictured his homeland as we would our own, in the present age: as an entity limited by territorial boundaries. This is because his actual 'homeland' was Islam itself: regardless of the numerous and sometimes contending political regimes which shared, or disputed, its possession. Such regimes, in his eyes, were no more than mere regional authorities. He looked upon their quarrels as matters of small import. Of more moment in his view might be the tyranny, or justice, with which each exercised its sway. Or he might consider what profit he might reap from such regimes for himself, as a member of the military or scribal classes which gravitated around the centres of power. Ibn Khaldūn himself was a Tunisian by birth, from a family of 'Treasurers' (*Makhẓniyya*) powerfully connected to the court. There he served the Hafsid rulers, but then broke with them and went over to their opponents, the Marinid princes in Fez, without anyone at the time – including himself – regarding what he had done as amounting to anything like treason towards his homeland. In fact the only thing which constituted treason in the view of a medieval Muslim was apostasy: and the single possible penalty laid down for this, according to the *sharī'a*, was death. The only true boundaries that a medieval Muslim recognized were those running between *dar al-islām* (the Abode of Islam) and *dar al-ḥarb* (the Abode of War – that is, the lands of the unbelievers).

The medieval Muslim therefore dwelt in a world whose inner frontiers were fully open to him – since they were opened to him by Islam – and which

he was free to roam as he pleased. Throughout this world lived many peoples, by descent more numerous when put together than the Arabs, although in each case regarded as a 'minority': Persians, Berbers, Copts, Turks, blacks, and so on. Sometimes ethnic pride and rivalry flared up between these peoples. Both in Spain and especially in the Mashriq there emerged the so-called *Shu'ūbiyya* or 'ethnic' movement,[4] which led to rivalry between Arabs and Persians, with each side taking pride in its own lineage and descent, past and present accomplishments, and inherited gifts and qualities. The movement nourished much literary production, and often lent colour to belles-lettres, as notably appears in *al-Bukhalā'* [The Book of Misers] by al-Jāḥiẓ (d. 255/868/9) and several of this author's epistles.

Relations similarly became strained in the Maghrib between conquering Arabs and conquered Berbers. Ibn Khaldūn quotes the words of Hishām Ibn Muḥammad al-Kalbī (d. 204/819) to the effect that:

> The people disagreed with one another as to whom first caused the Berbers to leave Syria. And some said: David, through inspiration from the Lord – for it was said unto him: 'O David, cause thou the Berbers to leave Syria, for they are the leprosy of the earth!'[5]

While some Arabs did indeed sink to the point of scorning Berbers as so many 'lepers on earth', we find others who strove instead to forge bonds of fraternal parity between the two peoples. The following verses in this regard were attributed to one 'Ubayda Ibn Qays al-'Aqīlī:

> Truly! Strive ye so to scatter such discord between us?
> Desist! And may the Lord guide you
> On, on to more righteous a Path!
>
> For this I swear: For brethren are we, and the Berbers!
> For together we grew:
> And noble their kin![6]

Contention between the two peoples nevertheless ended by sowing a true inferiority complex in some minds – as with one al-Bahlūl Ibn Rāshid (d. 183/799), in his day one of the leading and most ascetic and learned divines in Kairouan. Al-Bahlūl dreaded the possibility of being of Berber stock,

4. See the text by Abū 'Āmir Gharsiyya (Garcia), 1954. Abū 'Āmir Gharsiyya was abducted as a child from the Basque country of northern Spain and brought up at the court of the Muslim king of Denia (Dāniya), Mujāhid (known as Musett or Mugeto to Christian Spaniards). In his text, the author takes pride in the fair complexion of non-Arabs as compared with Arabs, dwells on the past grandeur of the Roman emperors and Persian shahs, draws an unfavourable contrast between Hajar, ancestral mother of the Arabs, and her mistress Sarah, supposed ancestor of the non-Arab peoples, and so on.

5. Ibn Khaldūn, 1956–1961, III, p. 185.

even though he himself entertained no particular hostility towards this people. According to the words of Abū al-'Arab (d. 333/944): [6]

> Al-Bahlūl held a feast and gathered about him many of his fellows, and they said unto him: 'O Abū 'Amr! Why dost thou so hold this feast, and unto thee there be no cause to hold such a feast?' Said he to them: 'Truly I feared me that I might be of the Berbers – and withal: all that is said of them![7] And I inquired as to my lineage from those who know thereof, and so I learned that I was not of the Berbers, and therefore do I hold this feast!'[8]

The Berbers, for their part, found, in appropriate favourable 'traditions' or sayings (*aḥādīth*) attributed to the Prophet, words to the opposite, which in a sense cleansed them of such humiliating slights and inferiority complexes. Abū Zakariyyā (d. 471/1078) thus consigned the following Prophetic tradition concerning the virtues of the Berbers:

> Said 'Ā'isha – God be pleased with her!: 'I was seated one day with the Prophet of God – on whom be God's blessing and peace! – when there entered unto us a certain Berber, ashen in countenance, with sunken eyes. And the Prophet of God – on whom God's blessing and peace! – looked upon him and said: "What hath befallen thee? Hast sickened? For thou didst leave me yesterday outwardly hale and ruddy, and at this hour dost return to me as if arisen from the grave!" Quoth the Berber: "O Prophet of God! I am afflicted with a sore concern!" Said unto him the Prophet of God – on whom be God's blessing and peace!: "What so troubleth thee?" Said he: "Your glance repeatedly fell upon me yesterday. And I feared thereby that a verse of Scripture revealed by God would now bear down hard upon me!" Said unto him the Apostle – on whom be God's blessing and peace!: "Truly my glance repeatedly fell upon thee yesterday on account of [the Archangel] Gabriel – peace be upon him! For he came unto me, and uttered: 'O Muḥammad! I enjoin upon you to hold God in awe, and also the Berbers!' And I said unto Gabriel: 'Who are the Berbers?' Said he: 'This people!' And he designated thee. And so I looked upon thee." And the Prophet further said: "I said unto Gabriel: 'What is their temper?' Said he: 'They are such a people as will revivify[9] Faith in God wherever it hath died, and renew it wherever it hath lapsed . . .'" [10]

Disputes and rivalries ran no less deep between nomads and settled folk than they did between ethnic groups. Islam rose and spread in an environment marked at once by towering mountain ranges; by fertile plains watered by

7. On these remarks concerning the Berbers, see here M. Talbi, 1966, pp. 18–19; Arabic tr., p. 23.
8. Abu al-'Arab, 1914, p. 58. This text also appears in al-Mālikī, 1951, I, p. 139; and in 'Iyāḍ, 1968, p. 30.
9. The printed text carries the misprint *yuḥibbūn* (they love). The intended reference here is to the religious resurrection spurred by the Ibāḍite Berbers, after the Umayyad caliphs had, as it were, 'slain' the faith through the injustice of their rule.
10. Al-Warjalānī, 1985, pp. 52–3; 1979 edn., p. 33.

streams; and by deserts and arid steppes which imposed on man a nomadic way of life. Daily habits were dictated by whichever way of life proved most suitable to the conditions within this environment. A nomad's wants were stark, the crafts he needed few and primal, his habits austere in food, drink and clothing, while his dwelling remained light and mobile. Nor did he rely on anyone or anything but on himself – and the cross-hilt of his sword – to defend his property and life. Settled folk, in the meanwhile, sought as far as possible to wring from their economic circumstances the means to ensure an ever easier way of life and increase in luxury, with manifold crafts to meet increasing wants. The craving to consume here was hardly satisfied with necessities, as was the case with nomads and bedouin.

> Sedentary people have become used to laziness and ease. They are sunk in well-being and luxury. They have entrusted defence of their property and their lives to the governor and ruler who rules them, and to the militia which has the task of guarding them. They find full assurance of safety in the walls that surround them, and the fortifications that protect them. No noise disturbs them, and no hunting occupies them. They are carefree and trusting, and have ceased to carry weapons. Successive generations [*ajyāl*] have grown up in this way of life.[11] [Nomads and bedouin, however] provide for their own defence and do not entrust it to, or rely upon, others for it. They always carry weapons. They watch carefully on all sides of the road. They take hurried naps only when they are together in company or when they are in the saddle. They pay attention to every faint barking and noise. They go alone in the desert, guided by their fortitude [*ba's*], putting their trust in themselves. Fortitude has become a character [*khuluq*] quality of theirs, and courage their nature [*sajiyya*].[12]

These two worlds existed as close neighbours in daily life, but each held to its customs and usages, to its codes of conduct and to its ideals. Still, whatever their sharp differences, dwelling next to one another over such a lengthy time-span, within the same fold of Islam, created complex ties between them: for they complemented one another, and apart from the odd moment of tension, had much to exchange. For nomads and bedouin conveyed to towns and villages the produce of their flocks, thus providing the townsfolk, in abundance, with meat, hides, dairy foods, wool, and goathair raw or spun. They might further ensure the transport of merchandise and the protection of caravans. In return, nomads bought from the towns their cooking vessels, riding tack, weapons and whatever other manufactured goods they might require. Relations between the two worlds were prevailingly peaceful. When a central government weakened, however – as occurred in the Maghrib in the second half of the fifth/eleventh century – then the balance was upset, and nomads

11. Ibn Khaldūn, *al-Muqaddima*, ch. II, section 4; Rosenthal tr., vol. I, p. 257.
12. Ibn Khaldūn, *al-Muqaddima*, ch. II, section 5; Rosenthal tr., vol. I, p. 258.

consequently tended to extend their 'protection rights' over the settlements and so take advantage of their superior 'boldness' – to plunder.

> Furthermore, it is their nature to plunder whatever other people possess. Their sustenance lies wherever the shadow of their lances falls [*rizquhum fī ẓilāl rimāḥihim*]. They recognize no limit in taking the possessions of other people. Whenever their eyes fall upon some property, furnishing, or utensils, they take it.[13]

In this case, daily life for the settled folk would turn into a nightmare and a matter for dread. Nomads could ruin a town's surrounding fields and orchards, as happened to the olive groves of Sfax in Ifrīqiya (= modern Tunisia, from the Latin *Africa*) at the hands of the Banū Hilāl tribesmen. Al-Tījānī, who saw the area in 706/1306, wrote: 'Olive groves once grew here up to the very walls of the town, but the nomad Arabs destroyed them, and now not a single tree is left standing outside.'[14] Al-'Abdarī, who visited Ifrīqiya in 688/1289 on a journey from Morocco, reported of the townspeople of Béja that 'they dared not leave the safety of their walls for fear of the nomad Arabs, but continually prepared for funerals [by night] and for the parry and thrust of battle by day'.[15]

Nor should we neglect another medieval social category which played a considerable role in daily life: that of slaves.[16] Slaves were especially present as domestics in the home, but they were also important cogs who helped turn the wheels, so to speak, of two major economic institutions of the day: the plantation farm and the urban market (*sūq*). Not that medieval Islamic society constituted an entirely slave-based society like the Roman empire had been, for example. For Islam did not define a bondman as an object, but as a person with rights and duties.[17] The Qur'ān encouraged the manumission and redemption of slaves, and enjoined, for the purpose, setting aside a special portion of the legal alms tax (*zakāt*). Islam did not forbid slavery outright; nor did any other religion of the age. The faith was content to limit slavery's ill-effects by laying down conditions for decent treatment. Unilaterally banning slavery was hardly a practical proposition, since conditions were not yet ripe for jettisoning the institution altogether and proclaiming it against the law.

Slaves were present in all sectors of society and were involved in all sorts of activities both within and without the home. They served in war, trade and agriculture, as well as providing domestic labour. The first wars of conquest threw awesome numbers of captives onto the market. But when this initial source of supply ran out, a fresh source had to be found in raids along the coastlines and land frontiers of the Abode of War. Meanwhile trade with the

13. Ibn Khaldūn, *al-Muqaddima*, ch. II, section 25; Rosenthal tr., vol. I, p. 303.
14. Al-Tījānī, 1958, p. 68.
15. Al-'Abdarī, n.d., p. 34.
16. See M. al-Jawādī, 1967.
17. See R. Brunschvig, *EI*² art. ' 'Abd'.

Franks and others also provided the Abode of Islām with its requirements in 'infidel' (*'ilj*) human material: to be turned into pages, eunuchs or handmaids as the case might be. For slaves came from many ethnic groups: there were the Franks (although medieval Arabic often lumped them with all northern Europeans under the term 'Slavs', or *Ṣaqāliba*), Indians, Turks, Chinese, Berbers, blacks and others. Black bondmen were much resorted to for war. Ibrāhīm I (r. 184–196/800–812), founder of the Aghlabid emirate in Kairouan, collected a black bodyguard which totalled 5,000 men-at-arms.[18] Thirty thousand armed black bondmen served in the guard of al-Mu'izz Ibn Bādīs al-Ṣanhājī (r. 407–454/1016–1062).[19]

Contrary to popular notions, however, bondmen played a highly important role in everyday rural life as well, on plantations both large and small.[20] The labour force on large plantations, which might be so extensive as to include several villages, could at times be entirely servile. One example of such an occurrence is illustrated by what happened to one Abū 'Abd Allāh Muḥammad Ibn Masrūq (early fifth/eleventh century), who abandoned the wealth bequeathed to him by his father in order to take up the life of an ascetic. As he passed through one of the villages on his father's former lands, the inhabitants poured forth to greet him with these words: 'We are your slaves, everything in this village is yours!' He in turn answered: 'If ye be faithful folk, then ye are free, and what is yours – is yours!'[21] On smaller estates, a landowner – if he had to – would normally work his land himself, but with the help of at least a single bondman. This points to the almost family-like ties which might develop between a landowner and his bondmen. In Ifrīqiya, a noted jurist (*faqīh*) from the Kairouan of his day, Saḥnūn (160–240/777–854), met his students as he went out one morning from his farmhouse near the seashore, with his plough over his shoulder and prodding his team of oxen before him. As they gathered before his door, he told his students: 'My young bondman (*ghulām*) caught a bad fever yesterday; if I finish this task, then I will give you your lecture.'[22] The very picture of the simple life: with the master shouldering his plough and taking over a task from his own slave. We also have the case of a major landowner, Ibn Ṭālib (217–275/832–888) who, on appointment as one of the judges of Kairouan, sold his own slaves[23] and manumitted another, a young page, who did not even belong to him.[24] There are many similar examples, all of which point to the major place held by bondmen in daily life in both town and country.

18. See M. Talbi, *op. cit.*, p. 136.
19. See I. al-Hadi, 1962, I, p. 215.
20. M. Talbi, 1982, pp. 131–85.
21. Al-Mālikī, *op. cit.*, I, p. 126.
22. 'Iyāḍ, *op. cit.*, p. 97.
23. *Ibid.*, p. 212.
24. *Ibid.*, p. 214.

The most important role for slaves, however, was undoubtedly that played by 'handmaidens' (*jawārī*). Classical literary texts abound in references to such young bondwomen, who were literate and skilled in composing verse, who played music and sang, allured and charmed with their beauty, and bewitched when they spoke. Only the privileged might even dream of owning bondwomen such as these, who fetched unheard-of prices. But besides this élite group of slave-women, and with the exception also of girls of native Iberian or Persian stock who had been well educated in Arabic, other bondwomen proved far more affordable to all buyers, at any rate according to each purchaser's means. Moreover, unlike the case with free-born women, the form and countenance of slave-girls might be inspected at will in the market. And so they were procured, for whatever their special gift might be, in view of domestic service – or for bed. For hardly an established family did without its bondwomen in greater or lesser numbers. It was said that the number of slave-girls in the palace of the Abbasid caliph Hārūn al-Rashīd 'exceeded 2,000',[25] while 'Muḥammad Ibn Saḥnūn (202–256/817–870) owned 9 beds, in each of which he wished to bed a separate concubine.'[26] Nor were handmaidens – destined for pleasure, ease or domestic service – to be found only in the palaces of caliphs (some of whom were themselves the offspring of slave-girls) or of noblemen: we find bondwomen also in the dwellings of far less affluent folk, labouring to enrich their masters with the produce of their handiwork. Thus, in the first half of the second/eighth century, one Abū Sharīḥ al-Muta'abbid went to visit Abū 'Abd Allāh Muḥammad Ibn Masrūq after he had left Ifrīqiya for Alexandria to follow an ascetic way of life; the traveller 'found him reclining upon a felt mat and spitting in a potsherd full of ashes, while a bondwoman sat in his house spinning yarn'.[27]

Since trade in slaves was brisk and the demand high, given the need for the services of bondmen and bondwomen in every walk of everyday life, deception was rampant too: hence a few authors found it necessary to write guidebooks for purchasers to help alert them to defects and assist them in uncovering fraud. Extant writings include a treatise by one Ibn Baṭlān, a Christian physician who died in about 455/1063, *Concerning the Purchase of Bonded Ones and the Close Inspection of Slaves.* Another is *A Guide for Him Who Would Wish to Buy Slaves,* by one Muḥammad al-Ghazālī.[28] Ibn Baṭlān opens his treatise thus:

> Whoever is keen on these matters shall hereby learn how to distinguish both sound limbs from those diseased, and decent morals from those depraved, as

25. A. al-Jumard, 1956, I, p. 263.
26. 'Iyāḍ, *op. cit.,* p. 184.
27. Al-Mālikī, *op. cit.,* I, p. 127.
28. Both these texts have comments by 'Abd al-Salām Hārūn and were published together in the collection *Nawādir al-makhṭūṭāt,* 1954, IV, pp. 352–89, 392–410.

> well as how to distinguish which bondwomen are fit for service and which for pleasure, and which races provide loyal and faithful slaves, which exhibit conceit and wrath, and which are fit for nothing but toil and the stick. And he shall choose from each race that most fitting for the aim and purpose which he hath in mind. For it is said: 'Whoso wisheth a handmaiden for his pleasure, then let him take unto him a Berber; and whoso should wish her to be a warden unto his treasure and confidence, then let him take unto him a Greek; and whoso should wish her to bear a child, then let him take unto him a Persian; and whoso should wish her to suckle, then let him take unto him a black; and whoso should wish her to sing, then let him take unto him a handmaiden from Mecca.'[29]

There exists perhaps no better text to illustrate the presence of slaves, male and female, in all walks of daily life.

Not only did many ethnic groups dwell cheek-by-jowl in the daily life of this medieval society: various creeds did also, and this not only in the Mashriq, but in the Maghrib as well. Tributary 'People of the Book' included Jews and Christians; but religious diversity in the more eastern districts also extended to include Manichaeans, Buddhists, Hindus, and so on. When the Spanish rabbi Benjamin of Tudela visited Baghdad in *c.* 567/1171, he counted as many as 40,000 Jews there, with 10 schools.[30] Islam inculcated respect for all creeds in no uncertain terms: in the words of the Qur'ān, 'Let there be no compulsion in religion.'[31] Recognition of *equality* between devotees of different creeds, however, was remote from medieval ways of thinking: equal status would hardly have been recognized as desirable by any of the communities involved. For such a revolutionary concept has only been adopted in very recent times, in fact, only since the Universal Declaration of Human Rights (10 December 1948): and has yet to be accepted wholeheartedly by all. In the past, the believer of each creed considered himself possessed of the absolute truth, clung to it, and thus was willing to sacrifice his life or suffer every form of humiliation, torment or oppression on its behalf. In his eyes, truth and error could not, of course, be regarded as equal. Hence the attitude of each devotee towards the members of other creeds necessarily stemmed from this sort of conviction.

In medieval Islamic society, pride of place belonged to Muslims. Several caliphs and emirs were keen to distinguish Muslims from the followers of other faiths in daily life, and time and again imposed upon the latter various restrictive measures which aimed both to separate and humiliate them. The first ruler to implement such policies was the caliph 'Umar Ibn 'Abd al-'Aziz

29. *Ibid.*, p. 352.
30. See here A. A. Duri, *EI*², art. 'Baghdad'.
31. Qur'ān, II. 256.

(r. 99–101/717–720),[32] followed by the caliph Hārūn al-Rashīd (r. 170–193/786–809) who ordered:

> the destruction of churches in the border regions, and wrote to al-Sindī Ibn Shāhik ordering him to take measures so that the appearance of the non-Muslims [*ahl al-dhimma*, or = 'protected ones'] in Baghdad should be clearly marked off from that of the Muslims in matters of dress, and that neither should they ride horses like them.[33]

This can only mean that such distinctions had not been much enforced before this decree was issued. There is even room for doubt as to whether these rules were actually applied for very long after this date, since the caliph al-Mutawakkil (r. 232–247/847–861) had to renew all these regulations[34] in the year 235/849 – and even so, 'the edicts of this ruler were quickly forgotten'.[35] Be this as it may, 'protected' non-Muslims did indeed have to face some periods of harsh discrimination in matters of dress and daily usage in various lands of Islam. In the Maghrib, the Almohad rulers in particular bore down harshly upon them, especially Abū Yūsuf Ya'qūb al-Manṣūr (r. 580–595/1184–1198).[36] Generally speaking, however, only a single true case of outright persecution was registered in the centuries of classical Islam, and this occurred in the reign of the Fatimid caliph al-Ḥākim (r. 395–411/1004–1020), a deranged ruler whose strange decisions may not have proceeded from normal reasoning.[37]

Despite such moments of tension, relations between Muslims and adherents of other faiths were generally satisfactory, where not indeed cordial. Even fusion was permissible to a certain extent, in so far as Muslim men might wed Christian or Jewish wives. Trade relations and market transactions were habitual and amiable. Exceptions only occurred in the case of ascetic types like al-Bahlūl Ibn Rāshid:

> It hath been told: al-Bahlūl gave 2 dinars unto one of his people to go and purchase thereby olive oil in which to take delight. And he told this fellow that the most delectable oil to be found was with a certain Nazarene [Christian]. And the fellow set off with the 2 dinars, and told the Nazarene that he wished thereby delectable oil for al-Bahlūl Ibn Rāshid. Qoth the Nazarene: 'We too come nigh unto God through al-Bahlūl, just as ye come nigh unto God through him.' And for the price of 2 dinars he gave unto him of that oil the worth of 4 dinars. And the fellow returned unto al-Bahlūl and told him of what had occurred. Said unto him al-Bahlūl: 'Thou hast satisfied a need, now satisfy unto me another, and

32. A. Fattal, 1958, p. 96.
33. Al-Ṭabarī, 1968, VIII, p. 324.
34. *Ibid.*, IX, pp. 171–4.
35. A. Fattal, *op. cit.*, p. 102.
36. A. al-Marākishī, 1963, p. 383.
37. C. Cahen, *EI*[2] art. 'Dhimma'. See also Bar Ye'or, 1980: a very partial work.

> return thou unto me 2 dinars.' Quoth the fellow: 'Why?' Quoth he: 'I have remembered me of the Word of God on high: Thou shalt not find a folk who believe in God and the Last Day who shall befriend those folk who turn away from God and His Prophet! And I feared me that should I eat aught of the oil of this Nazarene, then might I clap him to my heart in friendship, and so become one of the folk who befriend the folk who turn away from God and His Prophet – for a thing of this world of small account!'[38]

Dialogue between Muslims and the People of the Book might take place at the caliph's court in conditions of noted freedom and with a considerable measure of equality, as evidenced by the debate which brought the Catholicos (Eastern-rite prelate) Timotheus I[39] into the presence of the caliph al-Mahdī (r. 158–169/775–785). But dialogue of a more popular sort might take place as well in daily life, with no distinction enforced between Muslims and non-Muslims, as in the public baths.

> It is told that a certain fellow from among the companions of Muḥammad Ibn Saḥnūn went to Egypt and entered a public bathhouse run by a Jew, and this fellow entered into a dispute with the Jew, and the Jew worsted him, on account of the paucity of this fellow's knowledge. Now when Muḥammad Ibn Saḥnūn departed for the pilgrimage, this same fellow went in his company. And when Muḥammad Ibn Saḥnūn entered the capital of Egypt, his companion said unto him: 'Let us proceed – God save you! – to the baths.' And he led him to the bathhouse run by the Jew. As Muḥammad prepared to depart, this fellow preceded him, and engaged in debate with the Jew until the time for prayers drew nigh. And Muḥammad offered his noon prayers, then returned with this fellow to the debate . . .[40] [which lasted until the following morning].

Naturally enough, in this particular popular tale, the Jew ends up by converting to Islam – unlike the historical case of Timotheus. In another regard, such was the give and take between Muslims and non-Muslims in matters of daily usage that non-Muslim women might adopt the veil like their Muslim sisters.

> Quoth Shaykh al-Barzalī: It is the custom with us in Tunis for the women of the Nazarenes to take the veil like unto Muslim women, and most often without any sign of distinction – although some do observe distinction in the manner required of Nazarenes.[41]

38. 'Iyāḍ, *op. cit.*, p. 37. Al-Bahlūl died in Kairouan in 183/799.
39. For the Arabic versions of the dialogues between the Catholicos Timotheus I and the caliph al-Mahdī, see R. Caspar, 1977, pp. 107–75.
40. 'Iyāḍ, *op. cit.*, pp. 181–2.
41. Al-'Uqbānī, 1965–1966, p. 172. Al-Barzalī died in 841/1438.

Shibam (Yemen)
UNESCO/C. Darles

The everyday setting of daily life: the home

The city offered the main framework for daily life in Islam. This is because only in the city could all the requirements and conditions for Islam's way of life be fulfilled. For the city alone – or at least only a substantial village – could provide the conditions for communal Friday worship with bathhouse for prescribed purification, along with the needed setting for the administration of justice and the legal computation of market prices, or the facilities for study of the Qur'ân and its derived legislation and other connected sciences. This is why we see Muslim rulers – caliphs, governors, emirs – hasten either to found new cities or to settle in the older ones: and lavish attention upon them. Kûfa, Başra, Baghdad, Cairo, Kairouan, Fez, Marrakesh, Rabat and many other cities were all Islamic foundations. In Spain, urban life flourished in the Islamic era in Cordoba, Seville, Valencia and other towns as it never had before. Jurisprudence dwelt with particular concern on city life, taking great care to regulate urban activities and relations.

This is because daily life in Islam formed a complex of relations whose most perfect embodiment found expression in the city. For these relations corresponded, in turn, to those existing beween the Creator and His Creatures; between the Creatures and their Creator; and between the Creatures themselves, taken singly or as a whole. Such relations might also be perceived as a triangle: with the apex as God, and each angle at the base corresponding, respectively, to the individual and to the society to which he belonged. Each summit of this triangle remained in a state of constant and fixed interplay of give and take with the other two angles. This is why it was hardly possible for a Muslim to separate the sacred and secular aspects of his daily life: not on account of any confusion between the two levels (such confusion exists, if at all, only in the minds of certain recent orientalists, and Muslims may as well leave them to it), but because there was no way for a Muslim – especially a medieval Muslim – to function, as it were, now as a soul without a body, and then as a body without a soul. For in every turn of his daily life, whether he prayed in his mosque or worked on his farm, sat in his shop or rested at home, he retained this unity of body and soul, matter and thought.

The Islamic city, especially in this medieval age, unmistakably embodied such dialectic unity. For its minaret soared up from the heart and hubbub of the market into the open serenity of the sky, imparting holiness to place and time. The flow of time was not filtered through strictly partitioned and delimited hours and minutes, but patterned according to the rhythm of the muezzin's five daily chanted calls to prayer, and so pulsated with life and growth as it swelled or shrank with the change of days and seasons: thereby regulating through gentle successive beats all the activities of body and soul together. Thus, instead

of suffering rigid segmentation into equally measured and permanently fixed clockwork units, life's stream poured through such fluid divisions as dawn, morning, noon, afternoon, dusk and evening. To each portion of the day corresponded appropriate offerings of worship implicating the soul – and physical activities which put the material body to work. But worship itself involved the physical body, while material activities in turn essentially constituted worship, whereby sins were atoned for and the recompense for good deeds was magnified as specified by many a Prophetic *hadīth* (tradition).

After offering their pre-dawn and morning prayers, town and village folk might, as the Qur'ān phrases it, 'disperse through the land' to deal with their worldly activities 'and seek of the Bounty of Allah'.[42] After this phase, a man returned to his home to offer noon prayers and take his noonday meal, thereby replenishing both soul and body. Then he set out again afresh to his allotted task until afternoon prayers intervened to grant him a space of repose.

Daily activities ended with sunset, when a man, if he wished, might repair to the mosque (for dusk prayers) or return to his home, and later have his dinner before or after final evening prayers as he might wish. A medieval Muslim's day, then, was one where the practices of the faith were observed in a manner at once far more widespread and with a far greater depth of concern than is the case today. These set prayers were what imparted rhythm to the day according to the period of light, not by a fixed hour, and thereby provided a framework for labour and determined the moments for meetings or appointments. Hence the time-span in which a medieval city lived out its life was not our time-span.

In such a city, links between the generations were forged not only on a horizontal level – that is, the level of daily life as lived in the home, the field and the market – but also along a vertical dimension, whereby the past interlocked with the present. Time followed its course unhurriedly, without the individual or his society being aware of any change or break in conditions. The medieval city was possessed of a very powerful memory, one which incorporated reminiscences of the past commingled with the present in all the daily activities and transactions of its citizens. For the medieval city was the living extension of a transmitted inheritance – a whole legacy of crafts, customs, acquired skills, ways of thought, procedures and values. In the very same lanes, mosques, shops and bathhouses of the city, generations succeeded one another and passed on, in full awareness of the permanence and cohesion of their ties to one another. They knew themselves to be marked by what had gone before – and this in turn they bequeathed – from the store of all that belonged to the city: both in what the city took from them and in what it gave them in exchange. The city moulded the daily life of its inhabitants and was moulded by their life in turn; it thereby helped to give a shape to daily habits

42. Qur'ān, LXII. 10; Yusuf Ali ed. and tr., p. 1307.

and perpetuate them over time. This does not mean that urban life never changed. Life in all periods and places involves change, constant evolution and breaks. Death itself is inseparable from life. But breaks in the medieval period were never so sudden and complete as to cause the city to lose its function as an enduringly reassuring environment – and plunge its citizens into bewilderment and anguish.

Nor was the cemetery, or city of the dead, cut off from the city of the living. The medieval city formed a whole, where contact between the living and the dead never ended. Many a grave, in the words of al-Ma'arrī, 'served as a grave many times over'! A man might follow his mother, his father, his grandfather and his brother into the same tomb, with the family so coming together again and reuniting in a dimension of eternity which abolished time. A medieval urban dwelling space fairly teemed with the quick and the dead together, so to speak, on a plane of equality: in so far as cemeteries were not separated from the city, and were moreover filled with saintly tombs which drew pilgrims from far and near to implore blessings.[43] Nor did the dead, in return, stint their favours to the living: they visited them in their dreams. The time-span of daily life in a medieval city thereby took on an abiding, enduring character, one whose holiness encompassed everyday existence and imparted its own rhythmic pattern as it mingled the living and the dead: a holiness which staved off decay and annihilation.

In the days of the Ayyubid sultan, Ṣalāḥ al-Dīn, or Saladin (532–589/1137–1193), Cairo was the greatest city in the Islamic world. When the Spaniard Ibn Jubayr, on his pilgrimage to Mecca, passed through the Egyptian capital on 11 Dhu'l-Ḥijja 578 (Wednesday 6 April 1183), the first place he hastened to visit was the famous cemetery of al-Qarāfa, of which he left the following eyewitness report:

> And in the evening of the aforementioned day we abode in the cemetery of al-Qarāfa, and it is also one of the wonders of the world for the tombs of the Prophets – God's blessings upon them! – that are encompassed therein, and also those of the Prophet's House – God's favour upon them! – and those of the Prophet's Companions and Followers, and those of the Learned, and those of the Devout, and those of the Saints possessed of miraculous powers and wondrous intelligence [of the beyond]. We set down here what was possible for us to see of them ourselves: and amongst them was the tomb of the son of the Prophet Ṣāliḥ, and the tomb of Reuben son of Jacob son of Isaac son of Abraham the Befriended of the Merciful One: God's blessings on them all!; and also the tomb of Āsiya the consort of Pharaoh, God be pleased with her! There were also the resting places of the Prophet's House, God be pleased with them, tombs of fourteen men and five women, upon each of which was an edifice most well wrought. All these sepulchres were of amazing workmanship and

43. See, for example, al-Harawī, 1954.

> wondrous construction, with custodians appointed thereto to dwell therein and watch over them. The sight is wondrous to behold: and a monthly stipend is set aside for these custodians.[44]

Ibn Jubayr spent the night in this *jabbāna*, the name still given to cemeteries in Maghribi Arabic, and hardly regarded this as odd. Given the medieval Islamic city's lack of separation between the living and the dead, medieval daily usage expected visits to cemeteries with overnight stays. Like many others in his day, Ibn Jubayr thus retraced, transcended and abolished the flow of time as he met here with the Prophets of Israel, with the Companions of the most blessed Muḥammad, and with the scholars, ascetics and saintly personages of the past. Whether these worthies were truly buried in this very cemetery of al-Qarāfa was of no real consequence: for another sort of truth here went beyond mere history. Daily life in a medieval city, as it were a great complex tree, offered a pure spiritual branch which shot forth and up from the surface of the earth; but this social tree also sunk its roots deep within the very ground of the city's physical being, whence this same branch derived its sustenance: nor might it put forth leaf were these roots to be severed – since, again, there is no life without death. It is no wonder, then, that the cemetery of al-Qarāfa was 'altogether built up with mosques and wrought sepulchres, whither flock, for refuge, strangers, learned ones, devotees and holy mendicants; a stipend for each place is allocated by the sultan every month'.[45] It is as if the city's conscience and spirituality came together here.

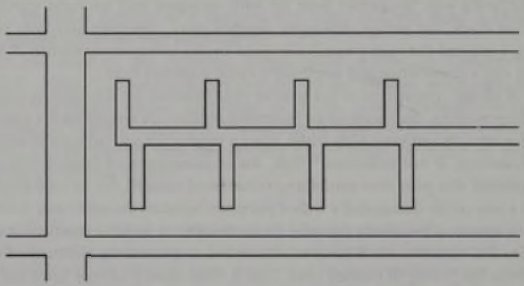
A global conception of life is what thus blended the city with its cemetery and imposed the city's general architectural outline. Of course such a town plan did not entirely originate with Islam, since a similar design had been in existence for centuries, if not millennia.[46] Still, the requirements of Islam's way of life remodelled this plan into something considered suitable for its own purposes. Such a way of life demanded a walled partition between the street and the home, that is, between the *insulae* (islands) fit for habitation and the centres for manufacture and distribution. Islamic morals aimed to protect the intimacy of family life from the prying of outside eyes. This is what caused narrow lanes and blind alleys to become 'the basic element of traditional Islamic town-planning'.[47] The very entrance of a blind alley served as a screen or filter, since none might enter except the inhabitants of those houses whose doors opened on to this same alley. Such an alley was not, then, a passageway, but a virtual womb protecting family life. In many cases, an alley sheltered several families connected by ties of blood or marriage and a neighbour who dwelt along such a corridor became the member of an extended family whose various wings thus folded in, or closed in,

44. Ibn Jubayr, 1907, p. 46; French tr., pp. 48–9.
45. Ibn Jubayr, 1907, p. 50; French tr., p. 53.
46. E. Wirth, 1982, p. 198.
47. A. Lézine, 1971, p. 136.

on one another, to join as a unit – whence the real meaning of the proverb: 'First the neighbour – then the house.'

A blind alley might take a number of different shapes, but the form was always one thus closed in or folded in upon itself.

> In those quarters or suburbs of the older cities which have not been too wrenched out of recognition in modern times, the perfectly rational purpose of the blind alleys appears very clearly. The theoretical pattern submitted by us here, which shows several houses served by such blind alleys, was inspired by the actual case of an extant housing *insula* in Kairouan.[48] Our theoretical *insula* is bordered by 4 public thoroughfares. The *insula* includes 60 dwellings with a surface of 196 sq. m. each, capable of sheltering a total population of some 300 people. A long main alley bisects the *insula*. From this same main alley, 4 by-lanes then branch out on each side. All these by-lanes, however, are set to a slightly staggered pattern, in accordance with the rule prohibiting opposite doorways from ever facing one another directly: precisely to prevent the possibility of one's eye being able to look straight inside a neighbour's home should he happen to be, just then, stepping outside. This rule very often applied in those blind alleys which for the most part made up so many private lanes.[49]



Such blind alleys might form other patterns – arrayed like the teeth of a comb, for example (see figure) – or show various other convoluted designs,[50] but their underlying purpose remained constant and unchanging: to deepen the tranquillity and repose of life within the home and prevent furtive glances from outside. This does not mean that the Arabs were altogether unfamiliar with city

48. Lézine (*ibid.*, p. 134, n. 2) indicates that this *îlôt*, or *insula*, is to be found at about 250 m to the north-west of *Bâb Tunis* (the Tunis Gate).
49. *Ibid.*, p. 134.
50. *Ibid.*, p. 137. See also al-Dulatli, 1976, p. 33.

plans where broad thoroughfares crossed at right angles, as was for example the case in Samarrā. But the most widespread and prevailing pattern was that of blind alleys, which were the most appropriate to the requirements of medieval daily life as dictated by Islamic ethics. The very width of streets also necessarily conformed to these requirements. In a medieval Islamic city, the roads were not laid out for wheeled vehicles, but were intended to admit the passage of people on foot and beasts of burden. For this reason, the specified width for a street corresponded to 4 m and for an alley, 2 m.[51]

Many a medieval Islamic city, contrary to the case with Western towns in this same age, could boast a population reaching into the tens of thousands, even into the hundreds of thousands. The greatest and most stately city in the Islamic world was Baghdad, founded by the caliph al-Manṣūr (r. 136–158/754–775). Al-Manṣūr at first established a circular city, one devoid of places of recreation.[52] But then, around this kernel, there grew up new quarters, markets and pleasure parks, until by the end of the fourth/tenth century the city may have had a population of up to 1,500,000 persons[53] and could display all the amenities required for a highly civilized and refined way of life. The number of public baths was computed in the year 383/993 at 1,500 establishments, and mosques ran into the tens of thousands, while physicians were so numerous that the caliph al-Muqtadir (r. 295–320/908–932) ordered Sinān Ibn Thābit to test them: as a result of which 860 individuals were granted licences to practise their healing arts. It is also said that the number of boats serving to ferry the inhabitants totalled some 30,000 craft.

The life of those who dwelt in the great capitals of the medieval period somewhat resembled what we know today in terms of all the bustle and overcrowding which necessarily accompany demographic growth and an economic boom. In such metropolises, one's way of life was determined according to one's wealth. As A. A. Duri points out, Baghdad's aristocratic quarters included al-Ẓāhir, al-Shamāsiyya, al-Ma'mūniyya and Darb 'Ayn; poorer quarters were Qaṭī'at al-Kilāb and Nahr al-Dajāj. While some houses boasted two storeys, the poorer sort only had one. Wealthy houses had baths and were divided into three parts, with the whole surrounded by a wall: these were the women's apartments, a reception hall for guests and the servants' quarters. Special attention was lavished on gardens.[54] Might not such a description fit a large metropolis of our own day? Where the resemblance becomes striking is in the case of Baghdad's own 'red belt', with its *'ayyārūn* (vagrants), who sparked off unrest and bloody uprisings, plundered the citizens and struck fear in their hearts.

The larger cities offered services required by travellers such as public eat-

51. A. Lézine, *op. cit.*, p. 135.
52. S. A. El-Ali, 1970, p. 93.
53. A. A. Duri, *art. cit.*
54. *Ibid.*

ing houses and inns, while lanes and streets bore names by which they might be identified. When Ibn Jubayr visited Cairo, as we have mentioned, on 11 Dhu'l-Ḥijja 578 (6 April 1185), he noted: 'Our alighting place in Cairo was at the inn of Abu'l-Thanā', in the Lane of the Candles, near the mosque of 'Amr Ibn al-'Āṣ – may God be pleased with him! And our room was by the door of this aforementioned inn.'[55] His halt in Alexandria had been at 'the inn known as the Inn of the Coppersmith, near the soap-making works'.[56]

Many of these metropolises aroused the awe of travellers – the tourists of the age – through the beauty and size of their monuments both ancient and recent. When Ibn Jubayr encountered the Arab East for the first time on discovering Alexandria, its beauty astonished him:

> and first came the splendour of its site and construction. It was such that never did we behold a city whose thoroughfares leading thither were so vast, with buildings so towering and so thronged. The markets, too, were crowded to an extreme. Among the wonders of the place was that its buildings below the earth were as substantial as those above and even more ancient and more solid, for the water of the Nile flows through houses and streets from beneath the ground, and wells are linked to one another and so flow into one another. We also saw therein columns and slabs of marble, of a number, height, width, and beauty, which fancy might not conceive, to a degree where thou shalt encounter upon thy way columns so high as to block out the sky and none might know their meaning or why they were set therein . . .[57]

Ibn Jubayr's descriptions of Alexandria may not be free of exaggeration or error,[58] but even so they are precious in so far as they express the impressions felt by a cultured medieval observer in his everyday life when faced with the vestiges of the past. Nor were such impressions so very different – disregarding the contrasts between our two periods – from those felt by any present-day tourist (that is, one with no particular scientific background) at some ancient site, where he allows his imagination freely to wander.

The medieval city was a living cell which offered its inhabitants opportunities to meet and gather, in the course of their everyday affairs, at public spectacles given in open spaces. Not that it provided audiences with the sort of theatrical shows, animal baitings to the death and gladiatorial fights in the amphitheatre which had been the fare, for example, of the ancient cities of the Roman empire. But the medieval city hosted other popular entertainments, less

55. Ibn Jubayr, *op. cit.*, p. 45; French tr., p. 46.
56. Ibn Jubayr, *op. cit.*, p. 39; French tr., p. 38.
57. For the rest of Ibn Jubayr's account, which is too long to quote in its entirety here, see Ibn Jubayr, *op. cit.*, pp. 40–1; French tr., p. 40.
58. M. Gaudefroy-Demombynes points this out in *Ibn Jobaïr: Voyages*, I, p. 40, n. 2, and p. 41, n. 4. Alexandria had much declined from its former splendour when Adorno visited the city in 1470.

cruel in character, around which the inhabitants might throng: such as those offered by the story-tellers and also the popular preachers. 'Isā Ibn Hishām tells us:

> I was strolling through Baṣra one day and came to the port where the people were gathered and a preacher admonished them, saying: 'O ye people! Know ye that ye do not pass over in vain, for unto today there followeth a morrow and unto you there approacheth a pit, so make ready therefore and gird yourselves with all your might! . . .'[59]

There is no doubt that such preachers and story-tellers were very numerous, that they took advantage of the gullibility and devotion of the crowds surrounding them, and that some of them turned into outright cheats and buffoons, to such an extent that the caliph al-Mu'taḍid in 272/892 prohibited them from plying their trade in the streets and mosques and forbade crowds to assemble around them.[60]

Crowds would also mill about the monkey trainers. As 'Isā Ibn Hishām tells it:

> When I returned to the City of Peace [Baghdad] by caravan from the Holy City [Mecca], I went for a walk by the banks of the Tigris to behold what fine things might be there and look upon them and came upon a circle of men crowded together, all doubled over with mirth and grinning with laughter from ear to ear. Driven by curiosity to see what so moved them, I drew nigh until I heard the voice of a fellow whom I saw not on account of the tumult and press of the crowd. For behold! He was a monkey trainer, who caused his monkeys to dance and thereby moved all to laughter.[61]

Public squares thus swarmed with tumblers performing all sorts of acrobatics, men who might also be invited to entertain at feasts. Here might be 'a tightrope walker, and there a man balancing on his forehead a big plank carrying another man'.[62] Farther on, there were 'people who conjured tricks using sleight of hand in the thoroughfares, whereby it appeared to onlookers that they cut off a man's head who then, when called upon, answered them resuscitated.'[63] We have a description by the Bruges-based Genoese merchant and traveller Anselmo Adorno who in early June 1470 witnessed such entertainments held every evening outside the walls of Tunis between Bāb al-Baḥr and the lake:

> Beyond these hostels[64] there stretched a wide, long square, whither we repaired every day to behold, in the two hours before dusk, most wondrous spectacles. For

59. Al-Hamadhānī, 1958, p. 130.
60. A. A. Duri, *art. cit.*
61. Al-Hamadhānī, *op cit.*, p. 96.
62. Ibn 'Umar, 1975, p. 80.
63. *Ibid.*, n. 36.
64. On such inns where Christian merchants and their consuls lodged, see R. Brunschvig, 1947, pp. 433ff.; and especially C.-E. Dufourcq, 1966, pp. 99–101, 177, 273, 440, 508, 519.

as the Moors observe no day of rest and no feast-day in the course of the week, they gather each eve towards dusk in some particular determined spot, with some coming on horseback and others on foot, according to their condition and means, to behold divers games and showings. There they are refreshed from the labour of body and soul. This said square in Tunis is set aside for these entertainments. There may be seen the story-tellers who, standing with a long wand in hand, beat out the measure to the tales they tell with the most varied and fitting gestures. They have about them a great number of most intent Moorish listeners, even as people are with us at sermons. These story-tellers tell the tales of days gone by.

In another corner of the square, other Moors sang and each had two comrades who accompanied the song by clapping their hands. They placed their shoes before them so that those who might wish to give alms might cast them therein. Others, still elsewhere upon this square, played upon bagpipes and upon very great and large drums with a muffled beat; to the play of these instruments, some danced, but only those danced who had thrown some coins to the musicians. They accompanied their dancing with divers sorts of movements of their bodies.[65]

Again upon this same square, but still elsewhere, tumblers who were masters in handling sword and buckler taught the art of fencing. The Moors excel in this art and are therein more skilful than are we. Indeed they surpass for the most part all other peoples in these three arts: swordsmanship, swimming and chess. Still elsewhere upon this square, children aged 10 or 12 years bore piled upon their heads eight or nine earthenware jars set one above the other with no bond between them, as one might bear a long lance. The Moorish folk thronged every evening to such entertainments, some on horse, some on foot, each according to his condition.[66]

With the abundance of means it offered for comfort and entertainment, the city acted as a magnet. Rural emigration is no recent occurrence. Ibn Khaldūn in his own age observed how city-dwellers stemmed from bedouin stock:

> Evidence for the fact that Bedouins are the basis of, and prior to, sedentary people is furnished by investigating the inhabitants of any given city. We shall find that most of its inhabitants originated among Bedouins dwelling in the country and villages of the vicinity. Such Bedouins became wealthy, settled in the city, and adopted a life of ease and luxury, such as exists in the sedentary environment. This proves that sedentary conditions are secondary to desert conditions and that they are the basis of them.[67]

One difference between the modern and medieval city lay in how the older city's structure allowed integration of newcomers from its closer or more remote outskirts, with the suburbs acting, as it were, as way-stations. A traditional suburb (*rabḍ*, or *raḥṭ* in our modern vernacular), 'which lay at the pe-

65. R. Brunschvig (1936, p. 187, n. 1) questions whether Adorno truly understood what he saw here and offers his own interesting observations and conjectures.
66. A. Adorno, 1978, pp. 103–5.
67. Ibn Khaldūn, *al-Muqaddima*, ch. II, section 3; Rosenthal tr., vol. I, p. 253.

riphery of the city, constituted a means for drawing closer, one allowing for ulterior integration within the city'.[68] But besides the fact that complete integration was never of course a speedy process, many a bedouin, even one who might come to number amongst the greatest and most learned scholars of his day, would tend to cling to time-hallowed custom: for example, by walking barefoot. When Ibn 'Arafa (716–803/1316–1401) was appointed as preacher (*khaṭīb*) to the Zaytūna cathedral-mosque in Tunis:

> the townspeople at first rejected his appointment, because he stemmed not from the city of Tunis, until he accepted such conditions as they lay down. One was that he should no longer eat figs, for the difficulty to be purged thereof. Quoth he: 'By the grace of God! Never have I eaten aught of them!' And another was that he should not go barefoot . . .[69]

In this regard, Anselmo Adorno observed, in Tunis, that 'the poor and labourers went barefoot and without hose', contrary to the town's burghers and wealthy folk.[70] I have myself observed how children of bedouin who came into Tunis to ply their trades – to sell dairy products, for instance – went without shoes, so that the townsfolk poked fun at them with the saying: 'On my slivers, not on my slippers!' (In Arabic: *fi sāqt* [literally, 'on my legs'] *wa lā fi'l-sabbāṭ*; this last word is a modern colloquial Tunisian Arabization of the French *savate,* or slipper, itself from the Spanish *zapato,* or shoe.)

CRAFTS

One of the most important differences between the daily lives of urban and rural folk lay in the matter of handicrafts. A peasant spent his day, depending on the season, in tilling, sowing, reaping or tending to his livestock or to his irrigation canals. For his tilling he depended on a simple plough (one he might carry to work over his shoulder),[71] and on his pair of oxen. One of the literary compositions which yields perhaps one of the most authentic and vivid pictures of rural life in Ifrīqiya in the third/ninth century is the *Ajwiba* [Answers] by Muḥammad Ibn Saḥnūn. The reader of this book:

> may gather for himself a picture of peasant life in particular, and rural life in general, and dwell on how farmers managed their oxen for ploughing, threshing and bearing burdens . . . His attention will be engaged by the plight of those tillers of the soil whose crops were damaged by trespassing herds and who saw no other way of protecting their fields except by digging outright moats around them . . .[72]

68. A. Bouhdiba, ch. in A. Bouhdiba and D. Chevalier (eds.), 1982, p. 22.
69. Al-Sarrāj, 1970, I, p. 582.
70. A. Adorno, *op. cit.,* pp. 119, 121.
71. As one gathers from the account where Saḥnūn shows himself to his companions, on the Tunisian coast, with his plough over his shoulder ('Iyāḍ, *op. cit.,* p. 97).
72. Ibn Saḥnūn, 1982, p. 233, note by Al-Munīf (ed.).

A rustic's main concern, of course, was rain. Thus, one day in Kairouan, al-Bahlūl Ibn Rāshid was sitting:

> with the ascetic Rabbāḥ Ibn Yazīd, when his own brother came in from the countryside. His brother began plying him with news about the rain and the sowing, but Bahlūl was vexed and changed colour in anguish on account of Rabbāḥ, whom he knew to loathe all mention of this lower world and its affairs . . .[73]

As in all ages, differences in one's daily concerns appeared, depending on where one lived, what one's social position might be and what one's interests were in life.

Nevertheless, some people managed to combine both a rural and an urban life, tending now, for example, to their ascetic devotions and learned pursuits and then going out to the country to see to their estates and worldly affairs. Such was the case with Saḥnūn, who divided his time between Kairouan, where he was one of the most distinguished scholars of his day, and his farm on Ifrīqiya's coast.

> Quoth Yaḥyā Ibn 'Umar: 'When I went unto Saḥnūn, I inquired after him and it was said unto me: "He hath gone out to the fields." And I went unto him and I saw a man with abundant hair and upon him a tunic of wool and a turban-cloth and he was tending to his ploughing and affairs. And I held him as one of small account, and repented me of my leaving those whom I left in the East and of my going forth therefrom to meet with him, and I said unto myself: "I do not see him as one who holdeth aught of learning." But he greeted me, and when I sat down with him to speak of learning, then I beheld him as one like unto an ocean thereof, which no single bucket might disturb.'[74]

While daily life in the countryside has changed and modern equipment now prevails, ancient customs have not, for all that, become entirely extinct, for societies as they evolve will betray both breaks and continuity. Among the medieval rural customs which have endured down to our own time is the one which requires the owner of a field to provide his harvesters and fruit-pickers with a meal, as was the case of old.[75] Another custom, in the harvesting and fruit-picking season, has the poorer peasants still sending their wives and daughters to pick 'the crops and olives and dates in the orchards and ox-ploughed fields of the people'.[76]

A day in the city, for its part, was taken up with plying the manifold handicrafts necessary to produce all the manufactured and marketable goods

73. 'Iyāḍ, *op. cit.*, p. 31.
74. *Ibid.*, p. 123.
75. This was common practice in Ifrīqiya in Muḥammad Ibn Saḥnūn's day. See Ibn Saḥnūn, *op. cit.*, p. 232; al-Mālikī, *op. cit.*, p. 215.
76. Ibn Saḥnūn, *op. cit.*, p. 236, note by Al-Muntif (ed.).

required to serve the various needs of settled life. Ibn Khaldūn divided crafts into three categories:

> into those concerned with making a living, whether necessary or unnecessary [crafts]; into sciences and crafts concerned with the ability to think, which is a quality peculiar to man; and into [those concerned with] politics. The first group includes the crafts of the weaver, the butcher, the carpenter, the smith and similar crafts. The second group includes the production of books, which means the manufacture of books by means of copying and binding them [and, further] singing, poetry, scientific instruction and similar things. The third group includes soldiering and similar crafts.[77]

And he adds, in the title to a special chapter on the subject, 'The crafts are perfected only if there exists a large and perfect sedentary civilization.'[78] The quality of daily life in the medieval city depended, then, on the degree, elaborateness and depth of its civilization. In some cities were thus to be found all the crafts known to the age with their attendant manual and mental skills, while in others were to be found only a few: for in this regard daily life was not the same in every town. Crafts were distributed in an organized manner, according to their requirements and purpose, around the outskirts of the city, or in its centre. The more that handicrafts dealt in luxury products or were considered 'noble', the more they gravitated towards the city centre. Those who plied 'unclean' trades (today we would refer to men 'who get their hands dirty'), such as tanners and dyers, exercised their craft in the suburbs; whereas those who dealt in scents, cloth or books took shops in the markets which were crowded in the centre of town and often surrounded the main mosque.

A medieval city's markets (*sūq*, plural *aswāq*) were subject to strict organization in keeping with all the needs of their inhabitants regarding the amenities of their everyday lives.

> The network of these markets corresponded, in one regard, to a network of lanes; but this reticulation also included the buildings of which it was made up, buildings which in turn might be closed off from one another. For each architectural element of the market consisted in fact of a building furnished with gates, one which offered its appropriate commercial activity. [. . .] Given this basis, to enter a *sūq* meant penetrating an enclosed geometric space which completely determined the structure of the manufacturing and commercial relations inside.[79]

The manufacturer, the tradesman and the craftsman all found in the *sūq* an organized space which allowed for easier control of goods, comparison of quality and prices, saving of time, and security as well since the market's gates were locked at night. Since the markets were roofed, this further provided the

77. Ibn Khaldūn, *al-Muqaddima*, ch. V, section 16; Rosenthal tr., vol. II, p. 347, n. 81.
78. Ibn Khaldūn, *al-Muqaddima*, ch. V, section 16; Rosenthal tr., vol. II, p. 347.
79. R. Berardi, 1970, p. 169.

possibility of strolling through within, sheltered from the heat and the cold; all this turned these markets into vast commercial galleries, filled with crafts. The traveller Anselmo Adorno marvelled at the organization of the markets he saw in Tunis, which he described thus:

> In the city, a determined place is set apart for each craft, and each class of goods is to be found in a place also set aside thereto, the which is a great convenience to the merchants who need not therefore run to and fro.[80]

He further adds:

> Those streets which are most thronged, those in which the most trade is held, are covered to prevent the sunlight from entering and disturbing the merchants in their trade and transactions. Certain men are assigned to scatter water in the squares, that they should thereby be cleaner and cooler. Others carry fresh water, sweet and delectable, of which they give to drink to all who might ask, even for no fee, although should they be given aught therefore, they shall not refuse.[81]

In describing Damascus, he says:

> Each craft and trade possesseth its own particular bazaar or market; this is a street full of shops, and covered, wherein nothing is sold save that which is wrought by this trade.[82]

Ibn Jubayr, too, marvelled over the markets of Aleppo, which he describes thus:

> But this is a city whose setting is most magnificent, splendidly laid out, wondrous in beauty, and its markets are vast and great, linked to one another and arranged in length, so that one leaveth the space allotted to one craft to enter into that allotted to another, until one hath done with all the crafts that be in the city. And all is roofed in wood, so that the dwellers thereof are fully shaded thereby. Every market thereof arresteth the eye and the beholder standeth amazed. Its *qayṣāriyya* appeareth like unto the enclosure of a garden for grace and beauty and surroundeth the venerable cathedral-mosque.[83]

A customer found goods displayed in the markets in all sorts of fashions, depending on the custom of the particular town or village. But in villages, meat, for instance, was often 'stacked in heaps',[84] while in Tlemcen in the days of al-'Uqbānī (d. 871/1467), long-established usage had:

> the butcher, when selling meat, add to its weight with guts and tripe according to the greater or lesser price thereof: save that not all people were dealt with in

80. A. Adorno, *op. cit.*, p. 101.
81. *Ibid.*, p. 123.
82. *Ibid.*, p. 329.
83. Ibn Jubayr, *op. cit.*, p. 252.
84. Al-'Uqbānī, *op. cit.*, p. 114.

> equal manner, nor was a single price observed. For the difference lay in that difference between him whose power was feared and him who was a poor one and whose only helper was God.[85]

Dealings of this sort, of course, have persisted down to the present day.

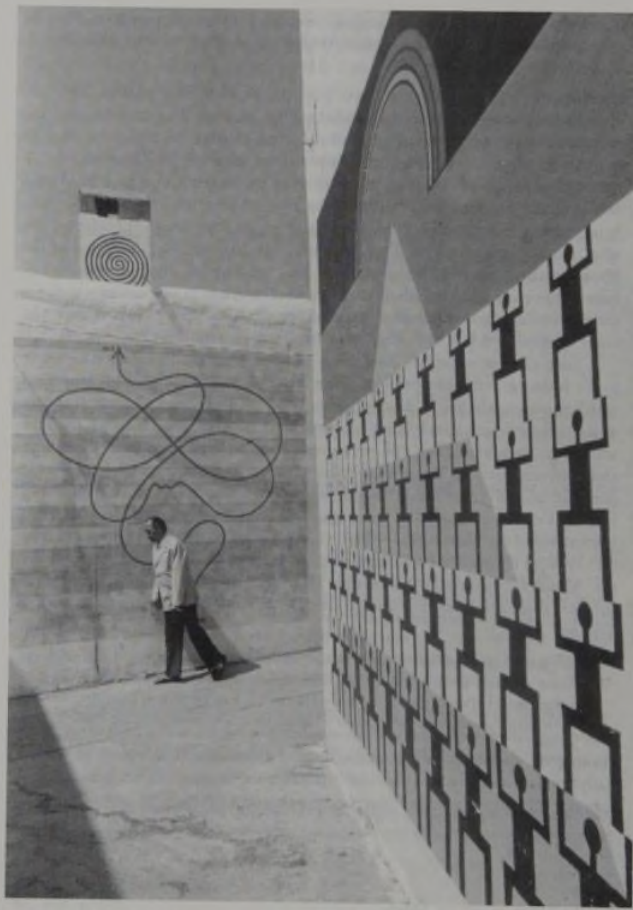
In Ifriqiya in the lifetime of Saḥnūn, 'figs were sold in earthenware jars wherein they were tightly packed',[86] while 'pomegranates and melons were sold in panniers whose upper contents only remained visible'[87] – and not what lay at the bottom: whence endless disputes between the sellers and buyers in wholesale or retail. 'The same befell the wickerware in which grapes were carried, they being stowed in layers in panniers and baskets, and the purchaser bought from what was apparent above.'[88] Then he found out that what lay below was of far poorer quality than what he had seen on top, which led to fresh arguments between buyer and seller much like what we still witness in our markets today – another indication that many of our medieval practices and traditions have not really disappeared, but have lingered on into our present daily life.

Such endless wrangling between buyer and seller finally resulted in resort to the *muḥtasib* (market inspector). The *muḥtasib*'s court was the legal institution which most closely touched upon the daily life of the common classes, for he was concerned with the defence of customers and the surveillance of markets and prices, weights, scales and measures – which varied, however, over time and between districts. The *muḥtasib* also kept watch on coinage: the gold dinar (*denarius*) and silver dirham (*drachma*), whose values, too, shifted over time and from one city to another – whence, again, much fraud. In the year in which Ibn Jubayr visited the Mashriq (578/1182–1183), the value of 1 gold dinar issued by the Ayyubid dynasty in Egypt happened to be equal to 2 gold dinars struck by the Almohad dynasty in his native Maghrib.[89] Buyers and sellers in equal measure feared counterfeit dinars. This gave rise to the custom, upon receiving a dinar:

> to place it between one's teeth to discern whether the gold of the dinar were pliant or firm: for it is the usage, with dinars when they are weighed, thus to lodge them between the teeth; for were the gold to be pliant, then one knew it to be sound; and were the gold to be firm, then one knew it to be base.[90]

Among the problems in the market between buyers and sellers to be solved daily by the *muḥtasib* were cases involving fraud: this customer bought milk and found it diluted with water;[91] that one purchased a tall skullcap and discovered

85. *Ibid.*, p. 114.
86. *Ibid.*, p. 111.
87. *Ibid.*
88. Ibn 'Umar, *op. cit.*, pp. 122–3.
89. Ibn Jubayr, *op. cit.*, p. 43; French tr., p. 44.
90. Ibn 'Umar, *op. cit.*, pp. 127–8.
91. *Ibid.*, p. 51.



Contemporary wall-paintings, Assilah (Morocco)
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it 'stuffed with tattered wool or cotton'.[92] It would hardly be possible to list all the types of fraud uncovered, from loaves of bread in which pebbles were discovered, or found to be grossly underweight, to jars of olive oil where the fresh oil was mingled with older oil. Books on the subject (*ḥisba* = inspection) are replete with such cases to which the inspector's attention was directed.[93]

The *muḥtasib*'s main daily preoccupation – again, here is something which has hardly changed – was taken up with judging cases involving prices, competition and hoarding. Prices were generally higher in the cities than in the countryside, in response to higher demand resulting in turn from demographic pressure, to the demand for luxury items and to government tolls levied on goods. Regarding urban costs, Ibn Khaldūn concluded:

> All labour becomes precious in the city, and the conveniences become expensive, because there are many purposes for which they are in demand in view of the prevailing luxury and because the government makes levies on market and business transactions. This is reflected in the sales prices. Conveniences, foodstuffs and labour thus become very expensive. As a result, the expenditures of the inhabitants increase tremendously in proportion to the civilization of [the city]. A great deal of money is spent. Under these circumstances, [people] need a great deal of money for expenditures, to procure the necessities of life for themselves and their families, as well as all their other requirements.
>
> The income of the Bedouins, on the other hand, is not large, because they live where there is little demand for labour, and labour is the cause of profit. Bedouins, therefore, do not accumulate any profit or property. For this reason, it is difficult for them to settle in a big city, because conveniences there are expensive and things to buy are dear. In the desert, the [Bedouins] can satisfy their needs with a minimum of labour, because in their lives they are little used to luxuries and all their requirements. They are not, therefore, obliged to have property.[94]

As a consequence, consumers in the city often demanded that fixed prices be imposed 'upon butchers, bakers and such other merchants whom all the people need', for 'if they were left without such a price so imposed upon them, they would cause all the people to perish!'[95]

While the poorer people pleaded for fixed prices applied to basic foodstuffs for daily sustenance, Islamic jurisprudence (*fiqh*) was conservative in these matters, with a preference for free prices subject to the law of supply and demand, except in cases of artificial hoarding or plots to raise prices. If such dealings did occur, then the government was required to intervene and protect consumers, just as it was expected to interfere on behalf of merchants

92. Al-'Uqbānī, *op. cit.*, p. 124.
93. *Ibid.*, pp. 116–18; see also pp. 107ff.
94. Ibn Khaldūn, *al-Muqaddima*, ch. IV, section 13; Rosenthal tr., vol. II, pp. 279–80.
95. Ibn 'Umar, *op. cit.*, p. 40.

hurt by unfair competition in the case of prices just as artificially lowered, with dishonest ends in view.[96]

The daily life of merchants, then as now, was based on dealing in bills of exchange and interest: but interest, in the eyes of Islamic jurists, amounted to usury (*ribā*), whatever the rate. In case of need, wholesalers and retailers alike resorted to all kinds of sleight of hand in order to secure loans from the money-changers – the true bankers of the medieval period – to help tide them over tight monetary straits. In Ifrīqiya, for example, in the days of al-Māzirī (453–536/1061–1141), 'the merchants of the *sūq* who deal in flax, cotton, olive oil and so on, deposit their earnings [with the money-changers] in dirhams, and inscribe their accounts [with the money-changers] in dinars, and by converting them into bills of exchange, make their purchases thereby'.[97] Dealing in such bills of exchange, or 'cheques' (the English word stems from the Arabic *ṣakk*), gave rise to all the problems with which we are familiar, from insufficient covering funds to real or fraudulent bankruptcy and all the resulting difficulties which ended up before the judges. Despite such drawbacks, however, sale on credit and dealing with bills of exchange based on interest were widespread practices and many subterfuges were found to circumvent the prohibition on usury. Al-'Uqbānī recorded just how common all these 'calamities' were and like every jurist of his day, bitterly condemned them – but recognized the inability of the judiciary to prevent them:

> Occurrences of this abomination abound and it is the most vile of abominations, now becoming public amongst the people to this extent that it will no longer remain hidden either to him who did know of it or to him who did ignore it.[98]

There were merchants who supplied the great caravans and fleets of ships with all sorts of goods imported from India through Alexandria, or dispatched down to sub-Saharan Africa through the oases of Sijilmāsa and Awdaghost. The legendary adventures of Sindbad, inspired by these large-scale commercial transactions, are familiar to everyone. When Anselmo Adorno visited Alexandria, he was awed by the sheer activity of such trade:

> No city of Asia or the East possesseth trade in spicery more brisk than that of Alexandria, for the many spices which come thither from India, whence they arrive in ships to the cities of Jeddah and Mecca and Tuzzim, all ports upon the Red Sea. Thence they are conveyed upon camels unto Alexandria or Damascus. Whilst we abode at Alexandria, there arrived, one amongst many others, a

96. On price control, see M. Talbi, 1987, pp. 121–58. Among numerous authorities, we can only quote here Ibn 'Umar, *op. cit.*, pp. 43–7, 103, 111–12, 113–37; al-'Uqbānī, *op. cit.*, pp. 205–14; al-Majlidī, 1970.
97. M. Talbi, 1982, p. 421.
98. Al-'Uqbānī, *op. cit.*, p. 138.

> caravan of 20,000 camels bearing spices, for that a ship from India had unloaded spices from her hold to the value of 100,000 ducats.[99] Indeed a single craft of these Indian vessels beareth a load greater than 3 of our greatest ships.[100]

Ibn Ḥawqal, in Sijilmāsa in the year 340/951, observed the widespread resort to cheques or bills of exchange:

> I saw in Awdaghost a *ṣakk* upon which it was recorded that it was owed unto a fellow from amongst the merchants of Awdaghost, and he was a man from Sijilmāsa: 42,000 dinars. And never in the Mashriq have I seen or heard tell of a story similar or the like![101]

Next to commerce of such scope carried out across whole climatic zones and continents, the common people earned their daily bread by manual labour and in the various petty trades which also catered to a city's needs. Thus one man might toil as a water-carrier (*saqqā*) – a trade I witnessed myself as a child, although it has entirely disappeared today – selling his water with or without ice.[102] Another served as a broker in the market between buyers and sellers, being thus exposed to the never-ending quarrels between the parties concerning costs, contracts honoured or breached, overpricing, the soundness of goods, the discovery of hidden defects or evidence of fraud after the conclusion of a sale and so on.[103] There were those who owned shops and those who served in them as workmen. Members of the élite avoided entering certain shops and the most refined would not drink 'of the water in the shops of the water-sellers, nor of the water of the mosques and public fountains', nor would they set foot 'in the shop of a mincer of meats and pies' and other public dealers in dressed or cooked foods, nor yet 'eat aught of what was prepared in the markets'.[104] Neither would they go to 'have their hair trimmed by a public barber in his shop, nor yet enter the baths without their own towel-wrap'.[105] Behaviour in daily life regarding resort to certain public places, or in dealing with the various trades plied in the market, depended on the social class to which an individual belonged.

When a bedouin or rustic came into town, he exposed himself to all sorts of unforeseen incidents, such as falling a prey to cheats: as happened to the peasant from the Sawād marshlands of Iraq who entered Baghdad 'urging on his donkey with some difficulty', and when he reached the end of his troubles, became a

99. A Venetian gold coin.
100. A. Adorno, *op. cit.*, p. 167.
101. Ibn Ḥawqal, 1938, I, p. 98. According to Levtzion, Ibn Ḥawqal saw the bill of exchange in Awdaghost, not in Sijilmāsa. See M. Talbi, 1982, p. 427, n. 2; see also J. Devisse, 1972, pp. 42–72, 357–87.
102. A. Adorno, pp. 123, 333.
103. M. Talbi, 1982, pp. 231–63.
104. Al-Washshā', 1980, p. 220.
105. *Ibid.*, p. 221.

quarry for the picaresque hero of al-Hamadhānī's *Maqāmāt*, 'Isā Ibn Hishām, who invited him to the shop of a kebab-vendor 'for the *sūq* is nigh and the food better'. After they had their meal of skewered meat with 1 kg of *lawzīnaj*,[106] Ibn Hishām went out of the shop to fetch 'water glistening with ice' and disappeared: leaving the Sawādī peasant to foot the host's bill to the tune of 20 dirhams. 'And the Sawādī fellow wept and gnawed his knuckles', rueing his gullibility 'and his craving for grilled meat which thus landed him in the very snare of the city'.[107]

Education and travel

Next to those trades which ensured daily subsistence, education – which we may also consider a trade at least in so far as primary teaching was concerned – likewise played a basic role in everyday medieval life. We do not know how far the different social classes had access to education, but from scattered indications in the various sources we can reasonably conjecture that the proportion of educated individuals rose the higher one moved up the social scale, to the point where illiteracy was almost non-existent among the élite. For families, education was a motive of prime daily concern and compelling importance. No better proof of this is furnished than by the special attention brought to bear on this specific sector by the legal literature of *fiqh* – as shown by the composition of whole treatises laying stress on those rules which governed the very craft of teaching, in both material and ethical terms, as well as by the conditions and regulations which bound the educator, the legal guardian and the pupil alike.[108] Indeed, one might almost consider illiteracy to have been virtually impossible for any conscientious, practising and fully observant Muslim, given his obligation to memorize at least a portion of the Qur'ān and grasp a minimum of the knowledge enabling him to meet such various mandatory religious requirements as his scheduled prayers, his scheduled keeping of the fast, his regular payments of *zakāt* and so on. Such incumbent rules were, in fact, what led to the spread of education: through both the elementary Qur'ānic schools (the *kuttāb*, plural *katātīb*) and the mosques – at any rate, in the major cities.

Medieval education was divided into two stages: an elementary stage (*ibtidā'ī*), imparted in the Qur'ānic schools (*katātīb*); and a higher stage ('*alī*), available in the mosques or, indeed, in the homes of the ulemas (scholar-teachers) concerned, where it might be dispensed in the courtyard or under a gateway, depending on the season. The Qur'ānic school (*kuttāb*) arose in the very first age of Islam, within the lifetime of the Companions of the Prophet,

106. A pastry stuffed with almonds and nuts, similar to *baklava* (a Persian word).
107. Al-Hamadhānī, *op. cit.*, pp. 59–62.
108. See Ibn Saḥnūn, 1972; French tr., 1953; al-Qābisī, 1955. See also M. A. Talas, 1957; I. al-Najjār and B. al-Zarībī, 1985.

and its purpose was to train students in learning the scriptures by heart and copying them out.

> Quoth Ibn Mas'ūd [a Companion of the Prophet who died in 32/652]: 'Needs must have men these three things: needs must have men a ruler to govern amongst them, lest they devour one another; and needs must have men the buying and the selling of Scripture, lest the Book of God become scarce; and needs must have men teachers to teach unto the children, and receive they a fee therefore, lest men no longer know how to read.'[109]

Teaching, then, came third among the absolute requirements of everyday life.

A child entered Qur'ānic school in his fifth or sixth year,[110] and spent the first period of his childhood there. The atmosphere of such schools had hardly changed down to the middle of the twentieth century: the children sat cross-legged all around on straw mats and holding their tablets, and the master sat on a chair covered with a carpet. Generally speaking, such instruction was not organized or supported by the state – especially before the rise of the *madrasa* ('centre of learning': eleventh century AD) – but was private. Thus for example Asad Ibn al-Furāt (d. 212/827), before he rose to become one of the outstanding scholars and judges of Kairouan and one of the leaders of the invasion of Sicily, started out in life as an elementary schoolteacher.[111] This was also the case of Imam Saḥnūn, whose very first decision lay 'in renting a house wherein to teach boys therein for a fee'.[112]

The Qur'ānic school was its own little world throbbing with life and one, therefore, which filled a considerable place both in the daily activity of young boys and in the daily concern of their adult guardians. A whole network of relations thus came into being between the elementary teacher, on the one hand, and the children and their families, on the other.

> The master should know how to secure his purpose with rod and lash, but not to the detriment of the lads. He must rent his shop, but nor again should the expense of this weigh upon his lads. He must instruct them through teaching and demonstration and expound the Qur'ān at fixed times, as on Wednesday evening and Thursday, and give them leave on Friday. Such hath been the use and wont of teachers since ever they first came into being: and none hath ever upbraided them therefore.[113]

A master was also expected to observe complete equality among his boys, 'and instruct the poor equally with the rich'.[114] Such an injunction implies that teachers did not always do so.

109. Ibn Saḥnūn, 1972, p. 72. These words are attributed to Ibn Mas'ūd.
110. *Ibid.*, p. 50.
111. 'Iyāḍ, *op. cit.*, p. 52.
112. Ibn Saḥnūn, 1982, p. 239.
113. Ibn Saḥnūn, 1972, pp. 103–4.
114. *Ibid.*, p. 85.

> Unto the master was a great vessel; every day the lads brought pure water which each in turn poured therein, the which to wipe clean thereby their slates . . . Then they dug a hole in the earth and therein poured this water and it was thereby absorbed.[115]

It was a jest among some boys 'to wipe their slates clean with their feet': something forbidden, of course, in the case of a Qur'ānic text – a better 'wiper' here being either the tongue(!) or the hanging edge of one's turban.[116] It was hence a matter of some pride for schoolteachers to be seen with splotches of ink not only on their clothing, but even on their lips.[117] A central concern was the matter of corporal punishment. A master resorted to the lash and also to a contraption known as the *falaqa*, resembling stocks (which imprisoned a boy's feet for him to receive whacks with a stick on his bare soles). These were considered part of the normal tools of a teacher's trade.

It was a rare child who did not suffer repeated drubbings and so did not regularly go home to his father from school in tears.[118] A teacher might actually 'entrust one of his disciples to carry out the flogging',[119] or overdo punishment to the point of provoking an accident: as happened to one master who inadvertently poked out a student's eye[120] – whence the sort of disputes between instructors and parents set forth in treatises on *fiqh*. Clever students shrewdly avoided such mishaps by plying their teacher with gifts.[121] Some teachers actually encouraged the practice. Those who have experienced life in a Qur'ānic school not only in the earlier part of the twentieth century, but down to our own day in the remoter towns and villages, well know how such scenes continue to be witnessed. They have been notably described by the modern Egyptian writer Ṭāhā Ḥusayn in his work, *al-Ayyām* [An Egyptian Childhood], where he describes his childhood.

Although teaching in these schools was primarily concerned with rote memorization of the Qur'ān – a task known to this day by the word 'sealing' (*khatm*) – students might also have access to a handful of other subjects, depending on the demand – and on how much their master was paid. Muḥammad Ibn Saḥnūn laid down those subjects required of schoolmasters in third-/ninth-century Kairouan:

> He must strive to teach them arithmetic, although this be not incumbent upon him unless there hath been a conditioned agreement upon him thereto, and likewise poetry, the wonders [of creation], Arabic, penmanship, the full sum of

115. *Ibid.*, p. 87.
116. *Ibid.*, pp. 87–8.
117. *Ibid.*, p. 88.
118. *Ibid.*, p. 89.
119. *Ibid.*, p. 98.
120. *Ibid.*, p. 131.
121. *Ibid.*, p. 96.

> grammar, and he be licensed to teach these. And it behoveth him further to instruct them in construing the Qur'ān, and this is incumbent upon him, and also to vocalize the Qur'ān, and spell it, and write it out in a fair hand, and read it out in a fair voice, and to mark its proper pauses, and to chant it: all this is incumbent upon him. Nor is it unseemly should he instruct them in poetry in which there should be no improper words from the language and recorded deeds of the Arabs: although this is not incumbent upon him.[122]

Methods of teaching differed from one geographic zone to another. Procedures followed in the Mashriq thus found favour in the eyes of the Spanish-Arab traveller, Ibn Jubayr:

> Instruction of lads in the Qur'ān in these Eastern lands consisteth in the learning of its recitation and they learn their penmanship in poems and such other matters, thereby preserving the Scripture of God Almighty and Exalted from the besmirching of young boys as they rewrite and erase. And in many of these lands, he who teacheth recitation is one person and he who teacheth penmanship is another person and so the study of recitation is distinguished from that of writing. Theirs is a fine approach and they attain thereby a fine hand in penmanship, for their instructor therein is not preoccupied with other matters.[123]

Without a doubt, students in the elementary Qur'ānic schools were all boys. Mingling between the sexes was forbidden from the very first steps in life. Nevertheless, nothing prevented girls from being occasionally taught within the home by their parents or relatives if the opportunity allowed. According to the *Life* of the judge 'Isā Ibn Miskīn of Kairouan (d. 295/908), when not carrying out his judicial duties, 'then at dawn he recited a sixtieth portion (*ḥizb*) of the Qur'ān, and then sat with his students until noon, and then after noon called his daughter and the daughters of his brother to teach them the Qur'ān and learning'.[124] A number of women did attain distinction for their learning, among whom, for example, the daughter of al-Mustakfī, the Spanish-Arab noblewoman Wallāda (d. 484/1091), became famous for her poetry and other literary accomplishments – as well as for her love affair with the vizier and poet Ibn Zaydūn (394–463/1004-1071).

While instruction was normally private and only imparted for a fee, still, as a pious deed – although one not necessarily incumbent upon the state – the authorities occasionally subsidized it and made it available for free to the poor, as occurred in Cairo under the rule of the Ayyubid sultan, Ṣalāḥ al-Dīn.

> For this is one of his generous and illustrious deeds which proclaimed his concern for the affairs of Muslims, all of them; for he did command the construc-

122. *Ibid.*, p. 102.
123. Ibn Jubayr, *op. cit.*, p. 272; French tr., III, p. 314. On the different methods of teaching, see also Ibn Khaldūn, *al-Muqaddima*, ch. VI, section 36; Rosenthal tr., vol. III, pp. 292ff.
124. 'Iyāḍ, *op. cit.*, p. 251.

> tion of assembly halls to which were appointed teachers of the Book of God Almighty and Exalted, that they might instruct the sons of the poor and especially orphans, and he set aside a sufficient stipend to them therefore.[125]

The curriculum of Qur'ānic schools ended with what was known as the 'sealing' (*khatm*), when a gift would be presented to the instructor 'in accordance with the means or straits of each'.[126] In Kairouan, by the third/ninth century, it had become a popular custom to mark the occasion by holding a family gathering and a feast with the distribution of fruit to the crowds.[127] After the *khatm* began the second stage of education, which could last any length of time until a student, in turn, might take his place among the men of learning and sit down to teach.

A tradition attributed by al-Tirmidhī to the Prophet has him say: 'Seek ye learning from the cradle to the grave' (from the *Faḍl ṭalab al-'ilm* [Virtue in Search for Learning], §2 and §35). This *ḥadīth* took concrete shape in the daily life of many scholars, for it bound them diligently to search for learning and then to spread it in turn. A student (*ṭalib*) in quest of such learning – which especially meant theology – could go and sit in the circle of any scholar he liked, without having formally to enrol or to meet any other special condition or previous requirement: although many students chose to distinguish themselves by donning a specific raiment. In his work *al-Madārik* [The Perceptions], the judge (*qāḍī*) 'Iyāḍ reports the following words of the North African scholar Ibn Ṭālib:

> I was an orphan, with no father unto me, and I would come with my master on Thursdays and Fridays – and I was then a child with long hair down to my shoulders – unto the circle of Saḥnūn. And one day, while one was reading from the work *al-Muwaṭṭā'* [The Agreement by Imam Mālik], he chanced upon the name of one 'Umar Ibn Ḥusayn in the *Kitāb al-Zakāt* [The Book of Alms] and Saḥnūn said: 'He was one who gave counsel unto the judges in the days of Mālik.' Then the reader read further and after a little while Saḥnūn said: 'How did I name unto you the man who gave counsel unto the judges in the days of Mālik? For I have forgotten his name.' And all the people were silent. And I said from where I sat: 'He was 'Umar Ibn Ḥusayn, and may God favour you!' And he said unto me: 'The blessing of God upon thee! Thou hast done well, my lad!' Then said he: 'Who is this lad?' And they made me known to him. Then said he unto me: 'I should like thee to don the raiment of the People of Learning, for it is not seemly that such learning be denied to anyone!' And I came not unto the next sitting until I had shaven my head and donned the garb of the Learned. And I ceased not so to return unto Saḥnūn, and he drew me nigh unto him and made me to understand, until God made me to thrive through him.[128]

125. Ibn Jubayr, *op. cit.*, p. 52.
126. Ibn Saḥnūn, 1972, p. 94.
127. *Ibid.*, p. 99.
128. 'Iyāḍ, *op. cit.*, p. 209.

This tale provides us with a vivid picture of life in the circles of higher learning. In such circles, younger disciples sat near more or less advanced students, some of whom might be either attached to a particular master or indeed opposed to his teaching. Occasionally, heated arguments and counter-arguments flared up into outright scuffles, and not only figuratively – as happened one day in Kairouan in the circle of Asad Ibn al-Furāt.

> Quoth Yaḥyā Ibn Sallām: 'Asad quoted one day the Tradition of the Vision [*ḥadīth al-ru'yā*], and Sulaymān al-Farrā' the Mu'tazilite [rationalist] was sitting at the rear of the assembly and refuted this; and Asad heard him, and rising forth unto him, seized him by the collar and the scruff of his neck and smote him with his nailed slipper until the blood ran down, and so cast him forth from out of his assembly.'[129]

Before the appearance of the institution known as the *madrasa* – the most famous of which was the Niẓāmiyya,[130] founded by the vizier to the Seljuk sultans, Niẓām al-Mulk (d. 485/1092) – no official establishments for study existed. Learned circles normally assembled in the mosques, although many of the greatest masters also opened their own homes to their disciples. Such had already been the case with Imam Mālik (d. 179/795) in Medina. Saḥnūn acted likewise in Kairouan. According to one of his disciples:

> Saḥnūn would sit for his listeners before the door of his house and we would all sit upon the ground save those amongst us who brought a straw mat. Then when we had finished, he would say: 'Rise ye all like unto the rising of one man and let us disperse!'[131]

Not only students, however, resorted to the circles of such scholars. Others flocked to these meetings to secure blessings and in the hope of acquiring merit. Indeed, 'those who gathered at the sittings of Saḥnūn from amongst the devout were greater in number than those who gathered thither from amongst the students!'[132] Certain acquisition of merit was thus made available to all, in any state – even to those who dozed through the sitting!

> Sulaymān Ibn Sālim recounteth that one of the disciples of Saḥnūn fell asleep until the reader read out loud: 'as pleaseth God!' – and then he awoke. Quoth he: 'And we differed amongst one another as to his listening, and we asked Saḥnūn, and he said: "If he came hither for to listen, and such was his intent, then shall he be rewarded with merit." '[133]

When a scholar was famous, and a mosque and its surroundings fairly overflowed with crowds of listeners to the point where some members of the

129. *Ibid.*, p. 63.
130. The Niẓāmiyya was inaugurated in 459/1067. See M. Nakosteen, 1964, pp. 38–41.
131. 'Iyāḍ, *op. cit.*, pp. 96–7.
132. *Ibid.*, p. 119.
133. *Ibid.*, p. 266.

audience might not even hear the lecturer's voice, even in this case one secured the 'blessing of listening'. According to another account:

> Yaḥyā Ibn 'Umar [d. 289/902] in Sousse caused the people to listen in the mosque and the mosque was filled and its surroundings as well. And they asked him thereafter as to their listening and he said unto them: 'Ye shall be rewarded with merit.'[134]

The lectures of scholars, then, were not restricted to officially enrolled students; indeed, over and above their purpose to impart learning in the stricter sense, they served a much wider cultural function, much like public conferences today. At times the concourse of listeners could be very great indeed. For in this age, a 'university' was not something separate from everyday life, but very much intermingled with it: it provided continuous training to those who so wished and blessings to all who flocked to hear.

Another *ḥadīth* has the Prophet say: 'Seek thou learning and it were in China!' Lovers of learning put this exhortation into practice on a very wide scale. Travelling scholars sought out eminent masters and major centres of learning in all the various disciplines. Travel played a major role not only in the training of scholars, but also by bringing together peoples of different origins and widening their horizons. Few of the more famous scholars failed to travel. Ibn Tūmart (471–524/1078–1130), for example, left the highlands of his native Morocco to practise jurisprudence for more than ten years in the Mashriq, where he thus met al-Ṭarṭushī ('he of Tortosa' in Spain) in Alexandria and, in Baghdad, other scholars including Abū Bakr al-Shāshī ('he of Shāsh', that is, Tashkent) along with Mubārak Ibn 'Abd al-Jabbār: until he returned 'as an ocean overflowing with learning', as Ibn Khaldūn put it.[135] Ibn Tūmart elaborated his doctrine of Unitarianism, which then became the founding creed of the Unitarian rulers, or *Muwaḥḥidūn* (the Almohads). While the travels of Ibn Khayr al-Ishbīlī ('he of Seville', 502–575/1108–1179) never took him beyond the confines of his native Andalusia, he nevertheless took every advantage of his search for learning within these narrow frontiers to compose his book, *al-Fahrasa* [The Catalogue]. Since the purpose of travel normally combined the search for learning with the goal of the pilgrimage to Mecca, this is probably why we so often see Western Muslims betaking themselves to the East, but practically never encounter the case of Eastern Muslims in quest of science going in the other direction, that is, towards the Islamic West. Such was the awe in which Maghribi Muslims held all things Eastern that:

> Were a crow to croak on the rims of the East
> Or a fly in Damascus or Baghdad buzz over its feast,

134. *Ibid.*
135. Ibn Khaldūn, *al-'Ibar* ['Admonitions' = Book of World History], VI, p. 466.

As if before an idol they would fall to their knees
And drone out the weightiest treatises![136]

While males thus roamed about a great deal and might be away for years on end, their womenfolk sat at home and hardly ever left their places of residence. There is no doubt that their menfolk's absences on these journeys could be so frequent, long and detrimental to the very well-being of their wives that quite a few women took precautions against such mishaps through relevant stipulations in their marriage contracts. Both in Spain and North Africa, girls' fathers repeatedly laid down as conditions for their daughters' marriage:

> that the girl's spouse might not absent himself nigh or far for more than six months – save to discharge the pilgrimage incumbent upon his soul, for the which he may then absent himself three years; but needs must he then inform her of his journey, and by the most direct way proceed thither, and the meanwhile thereof see to her upkeep, and to her clothing, and to her dwelling; but were he to exceed the bounds of either of these twin conditions or indeed the bounds of only one, then his wife would be loosed from her bond and oath of wedlock.[137]

Travel, then, was a distinctive feature of daily life which profoundly affected the everyday existence of families and married folk. Despite poor communications, the endless time it required and all the hardships on the way, medieval man journeyed incessantly by land and sea, enduring fatigue and pain and occasionally courting fearful risk. The stylist al-Hamadhānī (357–397/968–1007) gives us an eloquent sketch of medieval travel at sea in his *Maqāmāt* (23rd 'session': *al-Ḥirziyya* [The Talisman]), where his hero 'Īsā Ibn Hishām thus recounts one of his adventures:

I took seat in a craft
In a risky spot aft:
And when the sea overswayed us
And night fell upon us
And the clouds overcloaked us
And the rain poured like ropes
And the fog piled in slopes,
While the wind wedded waves into hoops
And the squall fell in troops,
We sat in Death's clutch
Between seas at his touch –
No resort but to go pray our heart out,
No way out but to go cry our eyes out . . .[138]

136. Ibn Bassām (d. 542/1147), 1939, I, p. 2.
137. Ibn al-'Aṭṭār (d. 399/1009), 1983, p. 8.
138. Al-Hamadhānī, *op. cit.*, pp. 118–19.

Death by shipwreck was no rare occurrence, and indeed actually befell Ibn Khaldūn's family on their way to join him by sea in Alexandria. Ibn Jubayr narrowly escaped the same fate during his own crossing from Sicily to Alexandria; he graphically informs us, in his *Riḥla* [Journey], of the terrors of a sea swept by a squall which tore away at the sails – and at the hearts of everyone on board:

> It was the night of Wednesday, and from the outset a powerful wind raged over us and heaved up the sea, while its driving force stung us with rain like a shower of arrows:
>
> The danger grew
> And its fear filled the crew
>
> and the wind's force swelled with the rage of the rain until the ship lost her mainsail, forcing the crew to unfurl smaller jibs – but the wind caught these too and tore them to shreds, then broke that wooden spar to which these men lash their sail and which they call, in their language, the boom [*girriyya*]. Then dread settled over all souls, and the hands of the Muslims rose in prayer unto God All-Powerful, All-Majestic![139]

Overland travel was not always safer than sailing. Wayfarers might often meet with highwaymen – just as those who took ship might run into pirates and end up sold into slavery. Those who faced crossing the desert had to pack dry provisions which needed no cooking like cheese and almonds, as well as take their own supplies of olive oil and especially carry waterskins. Travellers rented camels and none might do without the services of a guide. A camel might carry two travellers slung on either side of its hump. Travellers of ampler means than the common run, 'first-class passengers' as it were, might treat themselves to relatively greater comfort by riding in a howdah (*shaqdūf*, plural *shaqādif*).

> None might journey in this desert save upon a she-camel for her patience of thirst. And the finest furnishing to be used upon her, by those who take their ease, is the *shaqdūf*. This is like unto a palanquin and the finest kind are from Yemen; it is similar to a sedan-chair, covered in leather and wide; two such palanquins are bound to one another with two thick girths and so slung balanced on either side of the she-camel. Four rods are planted, in this palanquin's corners, upon which an awning is draped and the rider beneath, like his opposite fellow, is thereby sheltered from the scorching of midday. And he reclineth in ease upon his couch, or propped upon his elbow; and with his fellow he might reach out for his food or for aught he might need, and read, should he wish to read, from Scripture or from some other book. And should he wish again, and the playing of chess be permitted in his sight, then he might play a bout with his fellow in mirth and in solace unto his soul. In all,

139. Ibn Jubayr, *op. cit.*, pp. 36–7; French tr., p. 37.

> it is a comfort from the hardships of travel. But most of the travellers ride their camels perched above their baggage and suffer all the blasts of the burning wind in travail and distress.[140]

Moreover, a medieval traveller was no better treated than one today by the frontier police and customs officers. As soon as he reached a border-crossing or a port, his identity and the purpose of his journey were verified and a 'disembarkation card' had to be filled out. Then he was searched and made to pay duty on whatever merchandise he carried. Ibn Jubayr thus recounts his landing in Alexandria:

> The first matter we saw there on the day of our landing was the coming on board ship of the officers of the sultan, for to mark down all that she carried. And all that were in her of the Muslims, one by one, were made to stand forth. And their names were inscribed, and the manner of their appearance, and the names of their lands. And each was questioned singly as to what pertained unto him of goods and coin that he might pay thereupon the alms tithe (*zakāt*). Nor was inquiry made if a year of possession thereof had elapsed, or had not elapsed.[141]

Travel, then, was primarily resorted to for the sake of the pilgrimage: but also in quest of learning and for the purposes of trade, or to carry out official missions. One such mission was that undertaken by Ibn Faḍlān, who left Baghdad in the year 309/921 for the land of the Bulgars on an official embassy. But trips undertaken for the sheer love of information and discovery and adventure also played a fundamental role in the daily lives of medieval men. Some individuals were keen enough to cross deserts and oceans, jeopardize their safety and risk their lives to reach the remotest corners of the earth: a frame of mind well expressed in the famous tale of Sindbad. For this is precisely what spurred on Ibn Baṭṭūṭa to abandon his native city of Tangiers and set off on wanderings which lasted for twenty-nine years and took him from North Africa down to the bend of the River Niger, and eastwards as far afield as India, Sumatra, Java and the coasts of China: before he returned after such a tremendous journey to settle down for good in his home town again.[142]

DWELLINGS AND DRESS

Where a man mostly lived, however – in medieval Islam as in any other time or land – was the place to which he finally returned no matter how long his journeying might last: his home. Nor did medieval man's daily life differ es-

140. Ibn Jubayr, *op. cit.*, p. 66; French tr., pp. 74–5.
141. Ibn Jubayr, *op. cit.*, p. 39; French tr., I, pp. 38–9.
142. See J. Sourdel-Thomine, *EI*[2] art. 'Ibn Baṭṭūṭa'.

sentially from our own regarding his primary concern with his own dwelling-place. Similar, too, was the tendency of distinct social groups to congregate in sharply differentiated residential areas, from the most comfortable and elegant to the most squalid and wretched. The city of Kūfa initially consisted of a few huts woven with reeds from the marshlands. When all this burned down, the caliph 'Umar (r. 13–23/634–644) granted permission to use stones, but his advice was: 'Do, but no one should build more than three houses. Do not vie with each other in building.'[143] Soon enough, however, such initial simplicity disappeared, along with the yearning it implied to build a classless society. Great cities arose with distinct districts, the wealthy and the poverty-stricken, whose very names reflected their class differences in the splendour they evoked – or the misery: as we have seen above in the case of Baghdad. Thus, within the confines of a single city:

> Some use castles and far-flung constructions comprising a number of dwellings and houses and rooms, because they have a great number of children, servants, dependants and followers. They make their walls of stone, which they join together with quicklime. They cover them with paint and plaster and do the utmost to furnish and decorate everything. [They do so] in order to show how greatly they are concerned for their shelter. In addition, they prepare cellars and underground rooms for the storage of their food, and also stables for tying up their horses, if they are army people and have many followers and guests, such as amirs and people of a corresponding position.
>
> Others build a small dwelling or house for themselves and for their children to live in. Their desire goes no farther, because their situation permits them no more. Thus, they restrict themselves to a mere shelter, which is natural to human beings. Between the two [extremes], there are innumerable degrees.[144]

House prices betrayed exorbitant differences. One man might live in a hovel that cost no more than 6 or 8 dinars,[145] while another built or bought himself a palace whose price could run into thousands of dinars. In 307/919 Ibrāhīm, son of the caliph al-Muqtadir, bought the mansion of one Muḥammad Is'ḥāq Kindāj for 30,000 dinars.[146] Al-Jahshiyārī tells us that al-Faḍl Ibn al-Rabī', an official who served in turn the caliphs al-Manṣūr, Hārūn al-Rashīd and al-Amīn:

> did dwell in the greatest street, across from the lane of the water-sellers, and when he purposed to build this his very mansion, al-Rashīd bestowed upon him to assist him in this very building 35,000 dirhams from the revenues of Ahwaz.[147]

143. Ibn Khaldūn, *al-Muqaddima,* ch. IV, section 8; Rosenthal tr., vol. II, p. 268.
144. Ibn Khaldūn, *al-Muqaddima,* ch. V, section 24; Rosenthal tr., vol. II, pp. 358–9.
145. M. Ahsan, 1979, p. 167.
146. *Ibid.*
147. Al-Jahshiyārī (d. 331/943), 1938, p. 289.

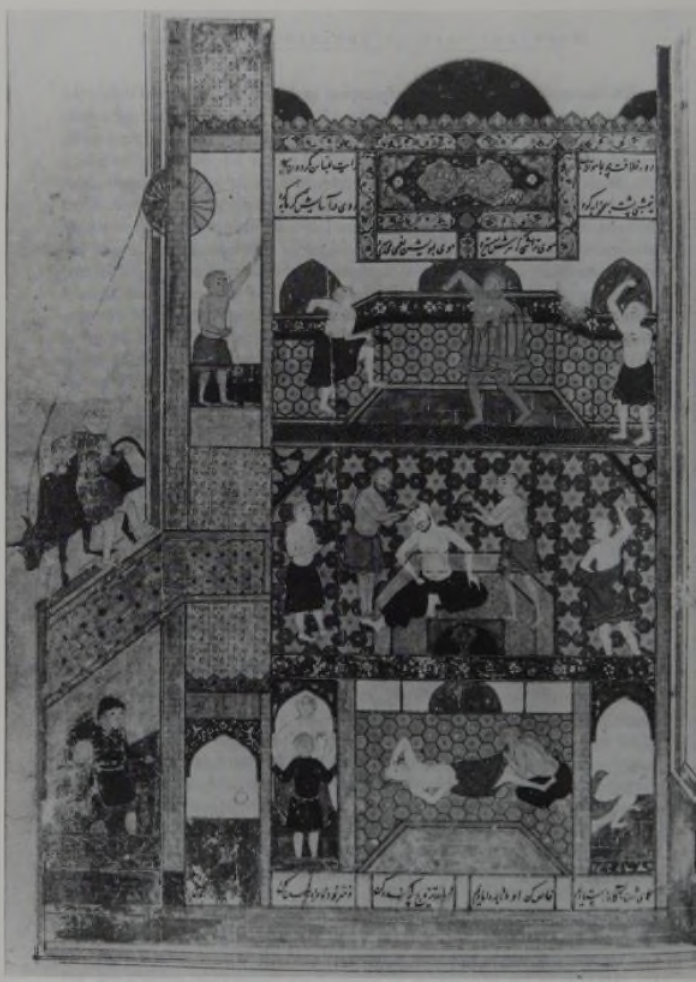
A rich man and a poor were equally intent as to where they could live – the difference lying, of course, in their means. Various proverbs of the age reflect just this concern. Thus: 'A man's paradise is his home'; and 'The first thing to buy, and the last to sell, is one's home.'[148]

But buying one's home was not within the reach of every purse and a man without the means to purchase a house had perforce to rent one. Rates differed, depending on the kind of house, but we do know that, just as today, payment weighed heavily on a tenant's resources, as illustrated by the proverbial expression: 'weightier than a house's rent'.[149] Rates naturally also differed depending on city, quarter and historical period. By way of example, the monthly rent of a modest house in third-/ninth-century Baṣra, or fourth-/tenth-century Baghdad, was around 5 dirhams.[150] There is no doubt whatever that leases stipulated that only a tenant and his family might occupy the house and that the very number of his children was taken into account. With his usual wit, the satirist al-Jāḥiẓ turns this around and tells us that his contemporary, the philosopher al-Kindī, once leased a house from a jurist, one Ma'bad – when two guests came to stay for a month with this same jurist. Whereupon the philosopher wrote to his landlord:

> Verily thy house goeth for 30 dirhams and ye are 6, whence 5 dirhams to each head of you. But if two men should be added unto you, then perforce should be added twice 5 dirhams. Therefore as of today thy house shall fetch 40 dirhams![151]

Problems abounded – just as today, nothing on earth seems to change in this regard – between landlords and tenants. Al-Jāḥiẓ, again, sketches them with his habitual razor-sharp pen in this anecdote about al-Kindī: 'Many a tenant pusheth off the paying of his rent, and delayeth its due, and so the months gather, then off he escapeth![152] When a new tenant arrives to take up the house, the landlord sweeps and dusts it 'that it may appear fair unto the eyes of he who would rent it and pleasing unto his gaze, who then when he quitteth the house in turn leaveth behind him naught but refuse and offal'.[153] If the landlord sets up in a corner of the house 'a stone slab for them to grind upon',[154] the tenant will ply his mortar and pestle anywhere on the premises and so ruin his host's floor. As a consequence, some preferred to avoid investing their capital in houses to let, given poor and sometimes non-existent returns and all the expenses involved in upkeep and repairs – leading some

148. Al-Tha'ālibī (d. 429/1038), 1961, p. 297.
149. Al-Ṭālqānī, 1961, p. 7.
150. M. Ahsan, *op. cit.*, p. 169.
151. Al-Jāḥiẓ, 1971, p. 82.
152. *Ibid.*, p. 84.
153. *Ibid.*
154. *Ibid.*



The baths. Caliph al-Ma'mūn has his head shaved. Miniature dated 1528
Pieterse Davison International Ltd © Chester Beatty Library, Dublin

people to say: 'To dwell in a rented house is shrewder than in a bought one!'[155] In both cases, however, a medieval housekeeper – whether tenant or homeowner – if he cared for his quiet, tried to get on with his neighbours: whence, again, the proverb: 'First the neighbour – then the house!'[156]

The usual house had a single ground floor and since its main purpose was to protect the family's privacy from prying outside glances, it tended to be closed in around an inner courtyard,[157] with its inner doors and windows opening on to this courtyard. Thus a house was completely isolated from the street and as it were tended to wrap itself around a centre of gravity represented by the courtyard, in the midst of which there usually played a fountain. Houses with 2 or 3 storeys, however, existed as well. The dwellings of the well-to-do usually consisted of a ground floor with another storey above. Recent archaeological digs around Sīrāf in Arabia[158] have uncovered evidence of multi-storeyed dwellings. The Arab geographers inform us that the city of Fusṭāṭ in Egypt had buildings ranging from 5 to 8 storeys, while the Persian traveller Nāṣer-e Khosrō adds, with perhaps a touch of exaggeration, that some of these constructions towered as high as 14 storeys, looming from afar like mountains.[159] The number of rooms that a house might boast varied greatly. Digs at Sāmarrā' in Iraq have revealed dwellings with as many as 50 rooms, great houses all once furnished with baths and running water conduits and some of them provided with their own wells.[160] In 1967 the Sīrāf excavations revealed houses of rectangular shape, with ground plans measuring some 27×18 m, holding an inner courtyard measuring 12.7×9.5 m itself surrounded by 14 rooms. To the northern side of such houses was a second, smaller courtyard, with the well and a few additional constructions.[161]

Gardens, too, were essential to the dwellings of the wealthy. This was so much the case with Baghdad that the city came to be known as 'the paradise-garden on earth', while Anselmo Adorno recorded his own awe on first glimpsing Damascus:

> When we beheld her from the crest of these hills, we saw not a city on this earth, nay, but a ravishing corner of paradise. Nor do I remember me ever to have beheld a city more beautiful in form, nay, thus to quicken and ensnare the soul. Nor do I believe me ever to have beheld so fair a city and wondrous. When one looketh upon her from the mountains, she showeth herself altogether like unto a garden or a park of greenery, therein set with dwellings and towers and castles.[162]

155. *Ibid.*, p. 88.
156. Al-Tha'alibī, *op. cit.*, p. 297.
157. See E. Wirth, *art. cit.*, p. 196.
158. M. Ahsan, *op. cit.*, p. 175.
159. *Ibid.*
160. *Ibid.*, p. 172.
161. *Ibid.*, p. 174.
162. See A. Adorno, *op. cit.*, pp. 327–9.

As for Tunis, Adorno had this to say:

> She is built altogether, as far as her compass, with great square houses of white marble, the which have not roofs but terraces. In their midst appeareth a void space, with no building thereupon. And the houses most often are far fairer within than they allow to be seen from without.[163]

The life of the age – and the climate – also required a place to be able to sit outdoors, but still next to one's house: whence the frequent recurrence of the expression 'He sat by the door of his dwelling' in classical texts.[164] This requirement was usually satisfied with a large raised bench (the *dukkān*) next to the doorway, where houseowners normally sat in summer.

Houseowners lavished considerable attention on the doors of their dwellings if their means allowed. The wealthier sort – especially parvenus and social upstarts – vied with one another in showing off the costliness and magnificence of their homes. Al-Hamadhānī thus depicts for us the splendour of a mansion in the Baghdad of his day in the following verbal sketch, where the picaresque hero of his tales, Abū'l-Fatḥ of Alexandria, is invited to dinner to taste of a savoury stew by a wealthy houseowner (*Maqāmāt*, 22nd 'session': *al-Maḍīra* [The Stew]):

> Quoth he: 'This is my household and ward!
> 'And how much dost thou deem, my good lord,
> 'That I might have expended upon this my gate?
> 'Far more did I spend – than allowed my estate!
> 'It reduced me – by God! – to my present poor state!
> 'Host dost thou consider
> 'The make of her?
> 'The shape of her?
> 'By God! Hast seen ever
> 'The like of her?
> 'See thou the uttermost subtlest craft of her!
> 'See the scrolls in their beauty carved all in rolls on her!
> 'They might have been drawn by the compass!
> 'Behold, the joiner his craft did surpass
> 'In the very make of this gate!
>
> 'Whence did he choose it be wrought?
> 'Dost thou say: "I know not?"
> 'From a single cutting of finest teak!
> 'Never eaten by worms the good wood of it!
> 'Never rotted, the damp hath not flooded it!
> 'When dost move her, she moaneth!
> 'When dost rap her, she groaneth! . . .

163. *Ibid.*, p. 101.
164. M. Ahsan, *op. cit.*, p. 176.

'Now, consider thou here the brass knocker!'[165]

The Arabs' passion for poetry led them to adorn these great doors to their houses with snippets of verse whose contents varied according to taste and inclination and which were inscribed 'in arrangements of coloured pebbles' or 'carved into plaster with a wooden stylus' or still yet 'designed in stone'.[166]

Nor did lavishness stop at the door. The entire mansion of a wealthy homeowner might be one blaze of ornament, down to its very latrine. As al-Hamadhānī has it:

> Thither stucco aloft it
> And cistern below it
> And ceiling polished above it
> And smooth marble spread under it;
> An ant might not cling to the sheen of its wall
> And a fly on the floor there would slip down and fall;
> Its door-panels' joints mixed ivory, teak,
> In the finest skilled joining one ever did peek![167]

Likewise, according to al-Jāḥiẓ, the wealthy 'take unto them baths in their own homes'.[168] Again according to al-Jāḥiẓ, each house had a cesspool where its used waters collected and which a labourer was hired to clean out when it filled – at the landlord's expense, it appears, not the tenant's.[169] If the landlord were 'thrifty', like al-Jāḥiẓ's character Abū Quṭba in his *Book of Misers*:

> he would delay the cleansing of the cesspool until such a day that a violent rain did fall – while the vexation thereof did overflow – and hire only a single fellow, for him to scoop out the matter into the street, that the flow might carry it and convey it into the canal.[170]

Moreover, al-Jāḥiẓ informs us, the place often selected 'for the kitchens was in the upper storeys, upon the surfaces of the terraces'.[171]

Medieval man too, depending on climate, had to see to the cooling or heating of his home. If he enjoyed ample or only slender means, he sought various ways to cool his dwelling. The principal method, and the most widespread among the rich, was the great ceiling fan made of canvas (the *khaysha*). Such a fan was much used in Iraq; its shape was similar to that of a ship's sail; it was hung from the ceiling of the room and made to move and rotate with a cord; and it was moistened with water and sprinkled with attar of roses. If

165. Al-Hamadhānī, *op. cit.*, pp. 107–8.
166. Al-Washshā', *op. cit.*, pp. 270–2.
167. Al-Hamadhānī, *op. cit*, pp. 116–17.
168. Al-Jāḥiẓ, *op. cit.*, p. 205.
169. *Ibid.*, p. 82.
170. *Ibid.*, p. 113.
171. *Ibid.*, p. 83.

a man wanted to take a midday nap, or sleep at night, the fan might be yanked by the cord to send a cool scented breeze through the room and over the sleeper.[172] The whole contrivance was known, from the canvas material of the fan, as *takhyīsh* ('fanning with canvas') and a house so provided as a *bayt mukhayyash* ('canvassed house'). People who came into some money were called 'those who sit beneath canvas fans'.[173] 'And the first to take unto him a canvas fan was the caliph al-Manṣūr'.[174] Those who rose even higher in the world took a further step and 'provided themselves with the services of snow and sweet basil',[175] setting aside a considerable portion of their revenues for the purpose.

Snow was used to help cool the mansions of the élite either in conjunction with the *takhyīsh* or alone. 'Bundles of long, thick rushes were strewn about the house and great blocks of packed snow placed between them: such was the use and wont of the Umayyads.'[176] Luxury, with some, reached the limits of extravagance, as befell Bakhtīshūʿ Ibn Jibrāʾīl Ibn Bakhtīshūʿ (d. 256/870), physician to the caliph al-Mutawakkil. According to one eye-witness account:

> I went unto Bakhtīshūʿ on a day of great heat and he sat in a fanned reception hall whose many windows were screened by canvas fans . . . And in the midst of the hall was a domed construction upon which were stacked a great quantity of rushes, in turn covered with brocade steeped in attar of roses and camphor and sandalwood scent. And upon his person he wore a splendid, weighty Yemeni robe with a shawl wrapped about him and I marvelled at his appearance. And when I went unto him under the dome a great cold overwhelmed me. And he laughed and ordered them to bring me a robe and shawl and said: 'Page! Uncover thou the sides of the dome!' They were uncovered and behold: open doors from the sides of the hall unto the places where the snow was packed! And pages fanned this snow, whence the cold which reached me.[177]

For his part, the caliph Hārūn al-Rashīd found another, more elegant and indeed lovely manner of ensuring coolness and fragrance to the chamber where he napped:

> Unto him in the days of great heat there was a salver of silver wherein were wrought attar of scents and saffron and spices and rose-water, and this was conveyed into the chamber of his repose, and thither withal were conveyed seven

172. Al-Ḥarīrī, 1867, II, p. 288, quoted by Ṭ. al-Ḥājirī (ed.) in al-Jāḥiẓ, 1958, p. 356 and n. 7. See also M. Ahsan, *op. cit.*, pp. 181–4.
173. Al-Jāḥiẓ, 1971, p. 205.
174. Al-Ṭabarī, 1966, VIII, p. 82.
175. Al-Jāḥiẓ, 1971, p. 205.
176. Al-Ṭabarī, 1966, VIII, p. 82.
177. Ibn Abī Uṣaybiʿa, 1965, p. 203.

> thin tunics woven of *rashtdiyya* reeds and cut in the fashion of women's raiment; then these tunics were drenched in the attar of scents; and every day were conveyed seven handmaidens; and each handmaiden was stripped of her clothing, and was robed with the tunic, and took her seat upon a seat pierced with openings, and suffered her tunic to fall over this seat and to drape it round, while from under this seat with the repeated stir of a stick she made vapour of ambergris to ascend, until the tunic upon her became dry. Thus was his use and wont with them, and so it was in the chamber of his repose, and the vapour and fragrance lingered in the chamber.[178]

In turn, the lord of Toledo, al-Ma'mūn Yaḥyā Ibn Dhī 'l-Nūn (r. 429–467/1038-1074), the splendour of whose receptions was proverbial, arranged for a pool in his castle:

> and had a dome built in the midst thereof, and the water was made to course up unto the summit of the dome by the contrivance of his wise men of art, then suffered to fall in ceaseless cascades down the sides of the dome all around, and the dome remained so continuously steeped in her fine raiment of water, and al-Ma'mūn Ibn Dhī 'l-Nūn sat beneath.[179]

Naturally enough, such princely devices to withstand the heat were hardly within the reach of all folk and the middle classes were inclined to resort to less contrived and far more widespread methods. One of these was the *sirdāb* (from the Persian *sard-āb*, or 'cool water'),[180] an underground room hollowed out beneath the house, where the family huddled to live through the worst of the dog days. Sometimes sleeping at night on the rooftop was enough, as well as cooling oneself by sprinkling water. Al-Asad Ibn Jānī had his own special trick, which al-Jāḥiẓ describes for us thus:

> When summer came about and his house became too hot for him, he dug his earth floor to the depth of a spade, then poured from his well much water thereupon, then trampled the clay till all was equal and the house remained cool as long as the dampness endured . . . And he would say: 'My *khaysha*-fan is of earth, and the water of my *khaysha*-fan is from my well, and my house the cooler thereby and my expense the lighter.'[181]

The means by which medieval man fended off the cold were basically represented by brazier and charcoal. The metal of his brazier and the type of its charcoal varied, however, according to his purse and number of servants. Bakhtīshū', the character referred to above, cherished his warmth in winter as much as he enjoyed the cool in summertime. A visitor who saw him in the

178. Al-Ṭabarī, 1966, VIII, p. 356.
179. Al-Maqqarī, 1968, IV, p. 353.
180. M. Ahsan, *op. cit.*, pp. 184–5.
181. Al-Jāḥiẓ, 1971, p. 102.

depths of winter found him 'in robes of silk and brocade . . . and before him a silver brazier of perforated work chased with gold, while a servant burned aloes-wood of India'. The temperature of the whole room was warm indeed and when the visitor began to show signs of astonishment, Bakhtīshū' ordered the outlets for the heating to be disclosed:

> And behold, there were screened gratings of wood beyond screened gratings of iron, and braziers within which there burned embers from the wood of the *ghaḍā* tree, and pages that did puff upon these embers with bellows like unto blacksmiths.[182]

Medieval Islamic households had very little wooden furniture, if allowance is made for the chests which held people's clothes. Life was lived on the floor: upon which, in most cases, one sat, ate and slept. Even so, while such items of furniture as bedsteads, couches, chairs, tables, cupboards and so on were relatively rare, they were not non-existent. The wealthy vied with each other to procure the most costly items of furniture and were willing to put up with outrageous prices to import them from abroad. For example, in Kairouan, one Aḥmad Ibn 'Alī Ibn Ḥamīd al-Tamīmī (d. 251/865), whose father had acquired enormous wealth in the Sudan trade and then had served as a vizier to the Aghlabid rulers, owned 'twin tables of glass conveyed to him from Baghdad – and they did not come into his hands but for 190 dinars'.[183] Rich folk who were fastidious in such matters 'took unto themselves seats of ebony inlaid with mother-of-pearl and others of reticulated rattan'.[184] Nor was furniture, raised higher than the ground, entirely lacking from the houses of the middle class or even of the poor. Al-Jāḥiẓ's character, Asad Ibn Jānī, a physician in straitened circumstances with few patients, still 'was wont to sleep in winter upon a bed of peeled reeds, that the fleas might slip off therefrom for the slipperiness and smoothness thereof'.[185]

The main furnishing and beauty of a house, however, normally and essentially consisted of textiles: from the carpeting on the floor to the drapes over windows and along walls. The many kinds of carpets, curtains, pillows, cushions, quilts, velvet coverings and the rest were what provided homeowners with the strict requirements of comfort or with the trappings of ease and luxury – again, depending on their purse. In some cases, a house guest might have no bed to sleep on but the floor carpet and no pillow for his head but the palm of his own hand, with no further furnishings to the dwelling anywhere in sight except for a single prayer carpet, a single pillow and a single cushion.[186]

182. Ibn Abī Uṣaybi'a, *op. cit.*, p. 204.
183. 'Iyāḍ, *op. cit.*, p. 323.
184. Al-Washshā', *op. cit.*, p. 212.
185. Al-Jāḥiẓ, 1971, p. 102.
186. *Ibid.*, p. 130.

When the *qāḍī* (High Judge) of Kairouan paid a visit to Saḥnūn, he found him 'in his illness, that of which he later died, with his head resting but upon a sack and there was naught to his house but straw mats'.[187] For his part, when the caliph al-Mahdī visited his army commander Abū 'Awn, who was likewise sick:

> behold: a shabby dwelling, a sorry building, and an arch whose edge was but of raw mud brick. Quoth the teller of the tale: There was but one soft quilt in the sitting room, and al-Mahdī sat upon the pillow, and Abū 'Awn sat before him . . .[188]

Such were the furnishings of the poor – or of those who, out of an ascetic bent, spurned the things of this world. The wealthy, however, made use of the finest silk stuffs and strove to acquire the costliest carpets and rugs, the most famous of which were woven in Armenia, in Fārs or Persia proper, in Tabaristan (northern Iran) and in Kairouan. We may take by way of example some of the objects that the caliph Hārūn al-Rashīd bequeathed to his heirs after his death in 193/809:

> One thousand Armenian carpets, 4,000 drapes, 5,000 cushions, 5,000 pillows, 1,500 silk and velvet coverlets, 100 sorts of silks, 1,000 cushions and pillows of silk, 300 Maysānī carpets (from the village of Maysān in southern Mesopotamia), 1,000 carpets from Darābgerd (in southern Persia), 1,000 cushions of brocade, 1,000 cushions stitched in silk, 1,000 curtains of silk, 300 curtains of brocade, 500 carpets from Tabaristan, 1,000 cushions from Tabaristan and, further, 1,000 cushioned elbow props and 1,000 pillows therefrom.[189]

For lighting one relied, most especially, either on candles or on various kinds of lamps and lanterns: all of which used oil and a cotton wick.[190] Candles were not within the reach of every purse, however, their use being restricted to the mansions of the wealthy and the palaces of emirs. Here again, when the caliph Hārūn al-Rashīd left his heirs '1,000 candle-holders',[191] he betrayed yet another sure sign of opulence. One of the proverbial expressions of the age refers to the 'tongue of the candle',[192] which alludes to its purity, radiant flame and absence of smoke.

Kitchen implements were few and simple. Most were of fired clay, except in the houses of the rich where they might be of china or brass. The writer of the *Kitāb al-Dhakhā'ir wa'l-tuḥaf* [Book of Treasures and Gifts] tells us that Hārūn al-Rashīd in this regard bequeathed '1,000 basins, 1,000 ewers,

187. 'Iyāḍ, *op. cit.*, p. 97.
188. Al-Ṭabarī, 1966, VIII, p. 180.
189. Al-Rashīd, 1956, pp. 215–16.
190. Al-Jāḥiẓ, 1971, pp. 20, 21, 33, 105, 157.
191. Al-Rashīd, *op. cit.*, p. 217.
192. Al-Hamadhānī, *op. cit.*, p. 86.

300 braziers and 1,000 pieces of other ware wrought of brass'.[193] The most widely used utensils were bowls, platters and dishes off which to eat, along with earthenware pots or metal kettles in which to cook. Trays and large bowls[194] – such larger vessels were made of brass – held fruit and sweets. Ghee, or clarified butter for cooking, was preserved in an earthenware jar suspended from the ceiling;[195] wine was kept in skins.[196] Utensils in actual use might be quite worn. As al-Jāḥiẓ's story has it, one day, in Baghdad, Hārūn al-Rashīd's vizier, Ja'far al-Barmakī, called on the scholar al-Aṣmā'ī (d. 213/828) – a notable skinflint – 'and saw a broken-necked jug, a broken-handled jar, a multi-cracked bowl and a shattered saucer'.[197]

Lighting a fire was always an exacting task for the lady of the house. She relied on a flint, set to touchwood or iron sulphur – unless she kept a low fire burning all night in the embers among the ashes, by which to kindle afresh, in the morning, the flame of her charcoal in the brazier: as the present author himself witnessed when young. One of al-Jāḥiẓ's old 'misers' described all the pains he had to take to get his fire going:

> We strove with tinder and flint, but when the stone's edge flaked off and turned dull, the thing became worthless and would not strike its proper spark: only a barren clod that might not ignite. Then rain and damp made us altogether helpless. One whetting stone after another bent the flint like a bow. I bought a marcasite stone for the stiffest price and a tough thick flint at a staggering cost. We also had to make provisions for contriving tinder from rags and preparing the cotton wads, all of which yielded the foullest smell. And good tinder rag was not to be had from cloth that had been dyed, or that was too dirty, or made from flax, or taken from old clothes. So this too we had to buy at an extortionate rate. For several days, we began calling to mind what the bedouin and desert Arabs do: how they strike fire with dry palm wood, by rubbing from above a pointed stick [*markh*] in the hole of another pierced stick below ['*afar*]. Then our good friend al-Thawrī – a man of sound counsel, as well ye know – advised us that bunches of dried dates might stand us in good stead for all this and taught us how to handle such fuel. And now we have it brought to us from our own lands, at no expense, nor does our servant today strike or kindle any fire except with these same dried dates.[198]

Not all houses were equipped with wells and cisterns, nor, in turn, was all water from certain wells fit to drink. In this case water had to be bought – although its price, to be sure, was trifling compared to that of bread[199] – and

193. Al-Rashīd, *op. cit.*, pp. 216–17.
194. Al-Jāḥiẓ, 1971, pp. 105, 142, 361.
195. *Ibid.*, p. 51.
196. *Ibid.*, p. 130.
197. *Ibid.*, p. 205.
198. *Ibid.*, pp. 32, 298.
199. *Ibid.*, pp. 63, 98.

was borne by water-carriers to the various houses, where it was preserved in jars.[200] But storing water in large jars – as was the custom in cities in the past and remains the practice in rural districts to this day – was not without problems. Such stored water might become polluted. Judges were frequently required to pronounce judgement and establish who was responsible. Muḥammad Ibn Saḥnūn in third-/ninth-century Kairouan was once asked about:

> a certain man who brought flour to another to knead it and bake thereof. He who brought the flour poured out water from the great jar unto him who kneaded the flour. And when he emptied the vessel he found therein a dead mouse. To whom in your view pertaineth the mishap?[201]

As we have seen, water-carriers sold their commodity in the markets. They might sell it glistening with ice. Normally, however, water for modest households in the hot seasons was cooled by simpler means, still in use today, less expensive and within the reach of all. Resort might be had to 'dribbling jars and trickling jugs' (porous earthenware jars which 'perspired' and so cooled through evaporation),[202] or still yet to the 'muffled crock' (*muzammala*).[203]

> The people of Baghdad kept a kind of jar or jug bored with a hole in the middle in which was inserted a tube of silver or lead, through which they drank; this vessel was known as the 'muffled crock' because it was 'muffled' or wrapped in sackcloth or some other material which held in place a layer of straw tight against the body of the earthenware; this was much used in summer days; water stored at night in cool places was then poured into such 'muffled crocks', where it stayed chilled.[204]

Asses, mules, and saddle-horses which either jarringly trotted or were trained to amble at an easy gait (such animals were known as *harādhīn*), served to convey the persons and goods of city-dwellers about their everyday affairs. Lack of stables in most homes meant that such animals, after their masters dismounted, were usually left standing in the lanes. So observed Anselmo Adorno during his stay in Tunis:

> The horses sleep in the lanes, with all four fetlocks hobbled . . . The greater part of these people, especially the merchants and all of some substance in the city, never suffer themselves to be borne on their own legs, but ride horses.[205]

200. *Ibid.*, p. 98.
201. Ibn Ṣaḥnūn, 1982, p. 235, n. 74.
202. Al-Jāḥiẓ, 1971, p. 83.
203. *Ibid.*, p. 13.
204. See al-Jāḥiẓ, 1958, p. 366.
205. A. Adorno, *op. cit.*, p. 125.

When Adorno reached Cairo, he hired asses for himself and his followers,[206] but these animals were sorry things indeed, for men of parts 'never rode asses for hire'.[207] The wealthy were distinguished by riding *barādhīn*.

Dress varied according to place and time. The garb of Muslims was never uniform. Western Muslims, in particular, wore different clothes from those current in the East. According to one anecdote, a judge from Tunis, one 'Abdallāh Ibn Farrūkh (d. *c.* 185/801), 'argued with Zafar Ibn al-Hudhayl in the assembly of Abū Ḥanīfa. And Zafar laughed him to scorn for his Maghribi apparel. But Ibn Farrūkh ceased not arguing until he cut him short.'[208] Western Muslims were especially distinguished by their hooded cloak or burnous (*burnus*). Ibn Khaldūn kept his cloak during his entire stay in Cairo. Spanish Muslims were distinct for not wearing the turban. Ibn Faḍlallāh al-'Umarī (700–748/1301–1349) described their appearance thus:

> The folk of [Islamic] Spain [*al-Andalus*] do not wear the turban, but carefully dress and clean their hair and dye it red with henna unless it hath turned white, and save for the common folk drape themselves with the *ṭaylasān* shawl cast over one or both shoulders in the most elegant folds. They clothe themselves in the most refined garments of wool and linen and the like. In winter for the most part their garb is smooth wool, and in summer, white. Those who wear the turban amongst them are few indeed.[209]

While the turban (*'imāma*) was generally the distinguishing mark of Muslims, it was not part of the apparel of all men everywhere. It is not recorded that Muḥammad Ibn Saḥnūn, for example, although one of the most renowned judges of Ifrīqiya, ever wore one. But those who wished to observe the requirements of the Prophet's example (*sunna*) did wear a 'chinned' turban (known as one bound with a 'chinning' or *taḥannuk*), that is, with one fold wrapped under the chin.[210] A turban only wrapped around the head without the chin-fold was known as the *iqṭi'āṭ* style. Al-Ṭarṭūshī (d. 525/1131) disapproved of such an *iqṭi'āṭ* style of turban lacking its chin-fold, however 'widespread [it was] amongst the folk of Islam': he called it 'the turban of Satan'.[211] Some were content to wear only the *qalansuwa* (turban's skullcap), with its many variations in shape and materials.[212] Others wore only the turban cloth (*shāshiyya*), still others merely the *ṭaylasān*, or shawl draped over the head and shoulders.

206. *Ibid.*, p. 207.
207. Al-Washshā', *op. cit.*, p. 22.
208. 'Iyāḍ, *op. cit.*, p. 44.
209. Al-'Umarī, 1973, p. 254.
210. Al-Hamadhānī, *op. cit.*, p. 199.
211. Al-Ṭarṭushī, 1959, p. 65.
212. Al-'Uqbānī, *op. cit.*, p. 24.

Dress was divided into two categories: clothes worn directly against the body and known as the *shi'ār* (under-garments); and clothes worn above the *shi'ār* and known in turn as the *dithār* (over-garments).[213] The *dithār* might include any of the following: the *izār* (drawers), the *mi'zar* (trousers), the *rida'* (cloak), the *qamṭ* (man's tunic), the *durrā'a* (wide over-tunic), the *jubba* (robe), the *miṭraf* (a kind of embroidered shawl), the *ghilāla* (close-fitting tunic), the *qiba'* (buttoned gown), the *ṭaylasān* (wide shawl), the *shamla* (turban's scarf), the *kisā'* (mantle), the *'abā'a* (sleeved cape), the *sirwāl* (wide trousers), the *tubbān* (narrower trousers), the *ṣudra* (waistcoat) and finally the *mindīl* (turban-cloth).[214] Footwear included *khuff* (boots), *na'l, madās* and *tamashshuk* (varieties of sandals), *jurāb* (stockings) and *ra'n* (leggings).[215]

Clothing varied, of course, with changes in season and temperature. When the cold was bitter, a man might wear either a furred pelisse or a quilted cotton *jubba*[216] and a *kisā'* (mantle) woven in Qūmis.[217] Footwear purposely designed to squeak was shod by men and especially women of elegance[218] 'intent on crackling their way through the markets and public crossroads'[219] of Kairouan in the days of Yaḥyā Ibn 'Umar. But rural folk and the poor, as mentioned above, more often than not went unshod.

Scattered references have come down to us concerning the garments worn by various personalities, kings, emirs and members of the different social classes. Saḥnūn wore:

> a deep blue tunic [*saj*] or a blue tunic, a cloak [*rida'*] and a skullcap [*qalansuwa*] either silken, blue-embroidered or fashioned in the manner of the Aghlabid rulers. When he sat in a hearing, he wore his cloak and Aghlabid cap; when he attended Friday prayers, he wore his tunic and silk cap; and when he was present at a funeral, he wore his blue tunic and blue cap.[220]

He might also wear a turban-scarf (*shāshiyya*) and long cape (*ṭawṭila*).[221] He also owned a black burnous for the rain and cold,[222] and if working his fields would put on a wool robe (*jubba*) and bind a loose turban-cloth (*mindīl*) around his head.[223] Ibn Ṭālib, a wealthy and prestigious judge in Ifrīqiya,

213. M. Ahsan, *op. cit.*, p. 34.
214. For such terms relating to clothing and their English equivalents, see *ibid.*, pp. 34–6; and also R. Dozy, 1845, 1927.
215. M. Ahsan, *op. cit.*, pp. 47–51.
216. Al-Jāḥiẓ, 1971, p. 59.
217. *Ibid.*
218. *Ibid.*, pp. 104, 358.
219. Ibn 'Umar, *op. cit.*, p. 93.
220. 'Iyāḍ, *op. cit.*, p. 96.
221. *Ibid.*, p. 79.
222. *Ibid.*, p. 96.
223. *Ibid.*, p. 123.

'wore an embroidered *jubba* or robe, a *ṭaylasān* shawl, cork-soled sandals (*na'l ṭa'ifī*), and a *qalansuwa* or skullcap'.[224] Ibn Ḥamīd (d. 251/865), son of a minister to the Aghlabid rulers in Kairouan and whose pomp and wealth became proverbial, owned as many as seventy embroidered *jubbas*.[225]

Ibn Jubayr thus describes a Friday prayer-leader and preacher, or imam, in Cairo during his visit in 578/1192:

> He came for the sermon wearing black in the manner of an Abbasid caliph: and this fashion consisted of a black cloak [*burda*], and a black *ṭaylasān* shawl draped over it – the sort of shawl which we in the Maghrib call an *iḥrām* – and a black turban; he also wore a sword.[226]

As for the raiment worn by a Hafsid sultan in Tunis in the day of Faḍlallāh al-'Umarī (700–748/1301–1349), this amounted to:

> a turban, not of immoderate size, wound with a fold passing under the chin along with a small flap ['*adhaba*] suffered to hang; he also had several robes [*jubba*] over one another. He did not sport boots, nor did any of his sheikhs or men-at-arms – except when travelling. Most of his clothing, and that of the greatest of his sheikhs, was cut from a local stuff known as *safsārī*, woven of silk and cotton or silk and wool, and left white or dyed red or green.[227]

Qāḍī Rashīd has left us a list of the garments owned by his near namesake, the Abbasid caliph Hārūn al-Rashīd, at the turn of the ninth century AD:

> Four thousand embroidered robes [*jubba*]; 4,000 robes [*jubba*] of silk lined with sable or other furs; 10,000 tunics [*qamīṣ*] and gowns [*ghilāla*]; 1,000 pairs of wide trousers [*sirwāl*] and much sundry other garb, of which 4,000 full turbans ['*imāma*], and 1,000 shawls [*ṭaylasān*] and 1,000 cloaks [*rida'*] of divers stuffs, and 5,000 turban-cloths [*mindīl*] of divers stuffs, and 500 velvet mantles [*qaṭīfa*].[228]

Adorno, too, was keen to describe the dress of the Muslim peoples he encountered in both the Western and Eastern Mediterranean. He notes that the garments, and even the footwear, of the people of Tunis tended to be very ample, although the length of robes varied according to social class. The wealthy were thus robed to their feet, while poor folk and manual labourers wore their garb cut short at the knees. Landowners and other gentry wrapped themselves in burnouses of choice cloth, while all men wore the white turban. Women only set foot outside in a white drape (the *mi'ṭaf*) which reached down to the ground and hid their faces up to the eyes. They sported wrist-bangles and anklets of a value befitting their social class. Bedouin women tat-

224. *Ibid.*, p. 218.
225. *Ibid.*, p. 323.
226. Ibn Jubayr, *op. cit.*, p. 50; French tr., I, p. 54.
227. Al-'Umarī, *op. cit.*, pp. 240–1.
228. Al-Rashīd, *op. cit.*, pp. 214–15.

tooed their hands and forearms.[229] All men wore a small dagger in a sheath lashed to their forearm, to which their money-purse was strapped likewise.[230]

The garb of the people of Alexandria also trailed down to their ankles and might be of silk, wool or linen – all again according to social rank. Adorno noticed that the women of Alexandria were far more elegant than their sisters in Tunis. They circled their heads with a silken diadem studded with gems or gold. They left their homes veiled in a linen drape (*mi'ṭaf*) of spotless white, beneath which their ankle-length embroidered garments might be descried. Draped in turn over their faces was a section of linen or silken cloth with two holes cut for the eyes. They wore leather leggings up to their knees and boots stitched in gold. Rural women also hid their faces beneath an ample cloth with eye-holes.[231] The clothes in Damascus did not differ markedly from those in Cairo or Alexandria.[232]

As far as the *ahl al-dhimma* were concerned, al-Burzulī (d. 841/1438) informs us that the custom in the Tunis of his day was for:

> the Nazarene [Christian] women to take the veil like unto Muslim women for the most part with no distinctive sign, although some women do observe the distinct habit [*zīy*] of Nazarenes. Jewish women are outwardly marked by the way they go shod in cork-soled sandals [*qurq*] or walk barefoot. As for the mark ['*alāma*] of the men amongst the Jews, this is a yellow sash [*shakla*] worn around, not beneath, their open outer robe [*iḥrām*], that they might be descried as such even from one coming behind. Nazarenes must wear upon their heads a habit peculiar to them which it behoveth them to observe, and some amongst them wear upon their heads a habit like unto that of the Muslims, but the sultans have constrained them to desist and to don their proper habit. And the habit of the Nabataeans in the lands of the East is to don black turbans, or blue, and that of the Samaritans is to don red turbans.[233]

WOMEN AND THE FAMILY

Our first duty is to try not to judge the past by the moral criteria of the present. This especially concerns those of us who have been influenced by the standards of the West, with all the resultant changes in the traditional values underlying the older social structure.

The status of women in all civilizations, both East and West, has been marked by subordination to males – women are seen as men's inferiors in social rank, responsibility and general lot: 'Men are the protectors and main-

229. A. Adorno, *op. cit.*, pp. 120–1.
230. *Ibid.*, p. 25.
231. *Ibid.*, pp. 171–3.
232. *Ibid.*, p. 333.
233. Al-'Uqbānī, *op. cit.*, p. 169 (Arabic pagination).

tainers of women.'[234] No one then would have ever entertained in his or her mind – least of all the women themselves – the slightest doubt in this regard, or even thought to question this.

Arabian women in pre-Islamic times were excised, just as the men were circumcised. Islam approved and confirmed the custom, as reflected in this *ḥadīth*: 'Circumcision is holy practice to be followed [*sunna*] unto menfolk and an honour unto womenfolk' (Ibn Ḥanbal, V, 75; Abū Dāwūd, *adab* 167). Aḥmad al-Sharabāṣī glosses thus: 'The wisdom in circumcising women lieth in reducing the sensations of their sex.'[235] The various Islamic religious schools debated the issue of female circumcison, or excision. Only the Shāfi'ī school insisted upon the practice as mandatory, however,[236] which explains why the custom mostly exists in those Islamic areas where the Shāfi'ī rite is followed and hardly elsewhere. But the fact remains that female circumcision has persisted, alongside male circumcision, from pre-Islamic times through the medieval age down to the present day, depending on the area and prevailing rite.

As noted above, women only went out of doors when veiled. The veil, it is true, was not mandatory for bondwomen, but to imitate freeborn women they tended to go out masked as well, unless, to an opposite extreme, they flaunted themselves 'front and back'.[237] The clerics (*fuqahā'*) strove their utmost to impose partitions between men and women and to prevent the latter from venturing outside. In the mosque, 'a separating wall was struck up' between male and female worshippers.[238] But how to deal with the presence of women in the streets and markets? In the teeth of clerical opposition, women flocked to the shops of craftsmen and especially 'lingered by the booths of purveyors and makers of scents and perfumes'[239] – there being little difference in this regard between women then and now. But the men, and especially the clerics, feared every evil whenever their womenfolk stepped outside. Al-'Uqbānī warns against women going to market, especially to exercise the craft of spinners for example, lest, he cautions, 'these womenfolk should mingle with menfolk, and these women fall in with disreputable ones who shall engage them in conversation and jest with impropriety'.[240] What this divine's warning betrays, given the fact that it is repeated in one clerical book after another, is that medieval Muslim women in their daily lives managed to escape domestic seclusion and mingle socially with men, as witnessed by the traveller

234. Qur'ān, IV. 34; Yusuf Ali ed. and tr., p. 190.
235. A. al-Sharabāṣī, 1980, I, pp. 253–4.
236. *Ibid.*, II, p. 31.
237. Al-'Uqbānī, *op. cit.*, pp. 78–9 (Arabic pagination).
238. *Ibid.*, p. 37.
239. *Ibid.*, p. 78.
240. *Ibid.*

'Princely reception'. Persia, early seventeenth century

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Adorno in Alexandria: 'The women go forth into the public squares and thoroughfares for to buy jewellery' and, adds this Western observer, 'throng those places where, like unto our own women, they may see and be seen' – further proof, if such were needed, that nothing changes in human nature whatever the religion or country.[241]

The further we move up the social scale, the freer we find women's relations to have been with men, especially where the slave-girls of the aristocracy were concerned. Reports on the doings of lovely and cultivated handmaidens, and the adventures of talented and beautiful songstresses, are too famous and numerous to count. A single example of such relations between men and women in aristocratic circles must suffice. The scribe al-Waḍḍāḥ Ibn Thābit writes:

> I was in the home of one of the scribes when there entered unto him a handmaiden as if she were like unto the moon, walking with swaying gait as if she were like unto a faerie, or as if she were like unto a lush bough in the breeze, till she stood before him and said unto him: 'My lady sendeth thee salutation and saith unto thee:
>
> "O brother mine!
> "Dost thou shun us! What right for thee thus so to shun us?
> "Turnest away? With no manners? Why thus so to run from us?
> "I stay firm in thy trust, brother mine!
> "In the hope of thy troth: I am thine!
> "Dispel thou the doubt of one who here hopeth!
> "Better this, than to linger, like one who sulketh!" '
>
> Quoth he to her:
>
> 'Return unto her the salutation and say thou unto her:
>
> "O sister mine!
>
> "I am he who pledged to thee my plight to thee!
> "In hope for thee twice more than thine for me!
> "Bereft and all lonely so, here to miss thee!
> "Grace my lot with thy nearness – so close – of thee!" '
>
> And I asked him regarding her and he said unto me: 'She is the handmaiden of 'Alī Ibn al-Jahm!'[242]

'Alī Ibn al-Jahm (d. 249/863), a contemporary of the poet Abū Tammām, also wrote fine verse which has been collected and now published.

Also very much alive to this day, sealed as it were in all literate Arab memories through accounts by the finest poets, are the amorous liaisons of

241. See A. Adorno, *op. cit.*, p. 171.
242. Al-Washshā', *op. cit.*, p. 227.

the Lady Wallāda (d. 484/1091), the daughter of the Spanish-Arab lord al-Mustakfī, with the poets Ibn Zaydūn and Ibn 'Abdūs of Cordoba. Similar fame is attached to accounts of the Lady Sukayna (d. 117/775), the daughter of al-Ḥusayn, the son of the caliph 'Alī Ibn Ṭālib. Sukayna was celebrated for her beauty, for her cascades of hair in a style named after her, for the circle of poets around her and for the train of ladies-in-waiting who surrounded her whenever she went out.[243]

In general, however, the lot of an ordinary Muslim woman was not an enviable one. She hardly counted in the eyes of the typical medieval male, and in the best of cases her fate was almost that of a fragrant flower to be picked in bloom and cast away when wilted:

> It behoveth a man of wisdom and culture, experience and knowledge of the world, to take a woman like unto a scented plant. Let him delight in the sight of her, and take joy in the blossom of her, until behold! there should come the season of the withering of her and she turn from her state at the time of the plucking of her! Then let him fling her from his hand and so cast her away, in loathing from his hall send her thus far away, for then there be naught left in her to enjoy, nor any delight in her whereby to toy.[244]

Males of old had the tendency – in fact they still do – to treat whatever woman they dealt with in their daily lives as an object; and such reduction of womanhood to the status of a 'thing' reached its uttermost limits when a woman was, indeed, a slave and her condition was that of any person in bondage, as we have outlined above.

The structure of a medieval family was entirely different from anything we know today: in its number of members, ties of kinship and outside alliances. A male's sexual relations were not subject to any rule of monogamy whatsoever. Religious law not only allowed a man to take up to four legally wedded wives, but also to keep as many slave-girls for concubines as he liked, with no other limits to the number he bedded but those of his lust and purchasing power. While polygamy remains permissible in the majority of Islamic countries – subject or not to certain conditions – the keeping of concubines has disappeared as completely as slavery itself from our daily lives. Of course, we have no precise statistics allowing us to gauge the full extent of polygamy or the practice of keeping concubines in medieval times. Still, the average natural ratio of numbers between females and males at any given period leads us to believe that monogamy, or at any rate the need to remain content with a single concubine, was the prevailing rule among the middle classes and necessarily so among the poorer classes as well. So much, indeed, we can glimpse through close examination of the literary legacy of the age: in

243. *Ibid.*, p. 77.
244. *Ibid.*, p. 175.

many cases there were bachelors who were financially hard put to it to marry even once.

When the wife of Abū Wadā'a died in Medina, Sa'īd Ibn al-Musayyab (d. *c.* 95/714) asked him if he intended to marry again. Abū Wadā'a answered: 'And who would marry me, who own no more than 2 or 3 dirhams?'[245] Such a plight was doubtless by no means rare. When Abu'l-Qāsim al-Masājidī complained to the judge of Kairouan, Ibn Ṭālib, of 'his single state and lack of good fate!',[246] the good judge bought him a slave-girl for 40 dinars and a house near the mosque for another 20. It is easy to infer from this anecdote that without Ibn Ṭālib's generosity, the petitioner would have gone through the rest of his life as a bachelor, for lack of means. For his part, 'Abd al-Rahīm al-Zāhid, 'the Ascetic' (d. *c.* 240/860), deliberately chose a life of celibacy and self-denial.

> It is said that he never married nor took concubines. And there were unto him two servant-girls who attended him and served his wants, and it was said unto him: 'Wherefore dost thou not take one unto thyself for a concubine? For both are fit for such.' He swore by way of answer that he knew not even their faces for his absorption in worship of his Lord Powerful and Almighty,

secluded as he was in the holy fort (*ribāṭ*) of Monastir.[247]

We find an altogether different situation among those classes possessed of wealth, power and prestige – although we must restrict ourselves here to two examples in addition to what we have already sketched above in relation to slavery. Adorno tells us that, in his day, the wife of the sultan of Tunis, Abū 'Amr 'Uthmān (r. 838–898/1453–1488), was originally a Christian slave-girl from Valencia, while:

> he possesseth besides more than 600 concubines, the which he keepeth in his great castle of the Kasba in Tunis, under the eye of a Christian woman and many eunuchs. When he departeth on a journey whithersoever he might go, he taketh with him 100 of these, or 60 at the very least, and these follow him always. They bear him many sons and daughters.[248]

The fondness of the rich and powerful for collecting many female companions with consequent numerous offspring lasted down to the beginning of the twentieth century. Sīdī Mā' al-'Aynāyn (d. 1910), one of the most powerful lords of the Western Sahara but also one of its most learned, prestigious and literarily prolific divines, successively wedded 116 wives and thereby sired 86 sons and daughters.[249]

245. Ibn Khallikān, 1968–1972, II, p. 376.
246. 'Iyāḍ, *op. cit.*, p. 219.
247. *Ibid.*, p. 162.
248. See A. Adorno, *op. cit.*, p. 197; and also p. 133.
249. H. T. Norris, *EI*² art. 'Mā' al-'Aynān'.

An extended family among the wealthy classes included, in addition to wives, handmaidens, servants and slaves, the two following categories: former slaves freed by their masters in reward for their services; and *mawālī* ('clients') bound to a family possessed of wealth and prestige, through ties of protection. The sum of such *mawālī* thus attached to prestigious families was very great in the early stages of the conquests; then their numbers and role decreased with time for many complicated political and economic reasons.

The owning of slaves – whether pages or handmaidens – was not restricted to the heads of families: that is, to males. Wealthy freeborn women could also own greater or lesser numbers of handmaidens – according to their inclination or purse – in order to minister to their wants or form their retinue: as was the case with the Lady Sukayna referred to above. Even if we move down the social scale, we still find women in the middle classes who had slaves of both sexes in their service. The *faqīh* (learned divine) of Kairouan, Abū'l-Ghuṣn Nafīs al-Gharābilī (d. 309/921), had himself once been the slave of a noblewoman who manumitted him and in whose service he remained for a spell as a *mawlā* ('client').[250] Al-Makkī informs us that, one day, as he was calling on al-'Anbarī:

> there came unto him a handmaiden of his mother and she had with her an empty jug; quoth she: 'Thy mother saith: it hath reached me that unto thee is a "muffled crock" [*muẓammala*: for cooling water],[251] and this our day being a warm one to excess, send thou to me in this jug a draught thereof.'[252]

The anecdote illustrates the central role played by slaves both male and female as members of the extended medieval family.

The higher and closer to the summit we rise in the social scale, the wider and more complex in its ramifications do we find the medieval family. Since wealthy families included numbers of wives as well as handmaidens and among the latter even songstresses and dancers, in addition to manservants and *mawālī*, not to mention all the children male and female who were the offspring of freeborn mothers and concubines, such clans might run into several dozens of members. As a consequence daily relations beween all clan members could at times become elaborate indeed.

At this level of family affairs, such relations were entrusted to and managed by pages or manservants who had been castrated. These eunuchs (*khiṣyān*) aroused no fears in their masters' minds as to the safety of the women's quarters and were themselves sometimes the targets of their masters' sexual attentions. In this regard, al-Jāḥiẓ writes, concerning one al-Bākharzī

250. Al-Mālikī, *op. cit.*, II, p. 162.
251. See n. 204 above.
252. Al-Jāḥiẓ, 1971, p. 113.

and in praise of the charms of castrated boys, the following distich, probably more eloquent on the subject than whole pages on end:

> Women: in comfort to dwell.
> Boys: on trips for a spell.[253]

In the same vein, in his book *al-Yatīma* [The Matchless], al-Tha'ālibī writes, concerning the blazing passion entertained by the famous Mesopotamian judge al-Tanūkhī (278–342/892–953) for a page-boy: 'his name was Nasīm and he was graceful and clever to an extreme!'[254] Examples of this sort abound in medieval polite literature, and homosexually directed erotic odes and related genres are too well known for us to dwell on here. Whatever the social and health problems raised by the issue in the West today, homosexuality, contrary perhaps to common thinking, is hardly something which has only sprung up in our time: it is deeply rooted in the most ancient civilizations. At the very least, it is closely linked to human nature and constitutes a well-known sexual inclination. Ancient Greece was familiar with it, as were many other cultures both before and after the rise of Islam. And not only males might be so inclined: medieval Muslim women, too, could entertain the taste. The cleric al-'Uqbānī thus denounces the dealings of those women 'who preferred to take delight with one another over commerce with menfolk', adding that 'mention of such corruption hath increased' in his own day.[255] There is no doubt that living conditions in wealthy families of the medieval period encouraged such practices. Within the household of an adult male were to be found, in a complex web of relations, freeborn wives, slave-girls, songstresses and sometimes page-boys and eunuchs. However much his lust might be spurred by different stimulants, a man's potency could only stretch so far: and his women, whether inclined that way or not, had finally to slake their appetites with whatever means were at hand.[256]

How was a marriage sealed? According the *shart'a*, a marriage, to be effective, required the consent of both parties; two witnesses; and the presentation (by the groom to the bride's family) of the *mahr* (bride-price or dowry). No upper limits were set as to the amount of the *mahr*; at the very least, it had to consist of a wedding ring, even if it were only of iron. Much ink was spilt by the different rites or schools regarding all these matters. We might observe that a marriage contract (*nikāh*) in writing was not regarded as a binding condition for weddings. In practice, in the daily life of medieval times, many folk were wedded without any written document whatsoever.

253. Al-Jāḥiẓ, 1938, I, p. 175.
254. Al-Tha'ālibī, 1934, II, p. 336.
255. Al-'Uqbānī, *op. cit.*, p. 72 (Arabic pagination).
256. Regarding sexual attitudes in Islamic civilization, see Ṣ al-Munajjid, 1957; M. al-Tūmī, 1980. See also A. Bouhdiba, 1975; A. Lutfi al-Sayyid Marsot (ed.), 1979.

In the medieval age, a virgin girl was normally married off by her legal male guardian – and despite a relative degree of feminine emantipation, this medieval procedure continues with little change in our own daily lives, especially in rural districts: variations depend on the country or social class concerned. In most cases, a father married off his daughter without bothering to consult her at all – or even the girl's mother.

Legally sanctioned weddings without a written contract came to be known as '*urfī* (customary) and are still entered into, again especially in rural areas. Al-Burzulī called them 'marriage contracts between bowl and kettle',[257] since their ceremonies consisted merely of a feast. Rural Tunisian usage has continued to be content with such procedures almost down to our own day – although somewhat clandestinely given the constraints of modern laws. As Muḥammad al-Marzūqī has observed, 'many bedouin tribes hardly bothered with any form of legal written contract and were satisfied when the community bore witness'.[258] And not only in Tunisia: we may be quite sure that this kind of legally binding 'customary' marriage, which was so much the rule in medieval times, continues to prevail in most Islamic countries today. Indeed, with due allowance for the great difference in status between medieval Muslim and contemporary Western women, it may be observed that Westerners, exasperated by the complexity of their own marriage laws, have recently discovered the advantages of customary marriage; and the number of couples who share the pleasures of marriage without a contract, cohabiting and producing legitimate children, runs into millions.

Everyday life never lacks for continuity, complexity and traits of resemblance down the ages: for its essence involves both a struggle and a vivid interaction between men and women in their own place and setting. Such a consideration must lead us to modify somewhat the preceding paragraphs, as we come nearer to the core of life as it was experienced in its different manifestations. The life of a medieval Muslim woman was not always entirely what appears to be reflected in the various anecdotes quoted above. For she did succeed, within the limits allowed by both the religious legal code in force and by the prevailing strictures of the age, in securing for herself no insignificant measure of dignity and even a certain degree of equality with males. This she managed to do because her marriage bond, in the eyes of the *shari'a*, was not a sacrament linking two spouses for ever – as is mostly the case in Christianity – but only a contract like any other, which both parties might subject to various conditions provided such clauses did not annul the agreement. Thanks precisely to this possibility of inserting conditional clauses in her wedding contract, a medieval Muslim woman was able to ensure for her-

257. See S. Ghrāb, 1996, II, p. 754. See also al-Burzulī, *al-Nawāzil*, ms., National Library, Tunis, No. 4851, I, f° 283 v°.

258. Al-Marzuqī, 1984, p. 76.

self various rights and privileges, foremost of which was her right to insist on remaining her spouse's only legal wedded wife: that is, her right to insist on monogamy. Ibn al-'Aṭṭār (330–339/942–1009) in his *Kitāb al-Wathā'iq wa'l-sijillāt*) [Book of Contracts and Seals] lays down a number of marriage contract models from which notaries may draw their inspiration. Among the possible clauses he lists in his model types, the following confirm, for a bride, the stipulation of monogamy:

> Lord So-and-so, son of Lord So-and-so, unto the Lady So-and-so, hereby undertaketh, willingly and voluntarily, for the sake of her love and to strive for her happiness, not to take another wife but her, nor to take a concubine for his bed nor get such a one with child. And should he commit aught of the above, then matters are in her own hands, and she may repulse the intruding woman by contract; and while the mother of a child is a freedwoman in the sight of God Almighty, still the matter of the concubine is in her hands, and she may sell her if she listeth, and she may keep her if she listeth, and she may free her if she listeth.[259]

This clause allowed a wife, in case of breach of contract by her husband regarding monogamy, to pronounce divorce herself of her own accord: since 'matters are in her own hands'. It also granted her the right to separate her husband from any other woman besides herself, whether this other woman were freeborn or bond. Among the conditions which a woman might insert in her marriage contract and listed by way of example – but not exhaustively – by Ibn al-'Aṭṭār, were the following: the right to visit her family; her guarantee against being moved from one city to another 'save by her permission and consent'; her security from departures of her husband 'on prolonged absence to places nigh or far'; the fact that she was entitled to domestic servants; and other clauses that she might specify and that her husband was bound to observe.[260]

But how widespread in practice were such marriage contracts conditioned by their binding clauses in medieval society? This is a fundamental question, but one difficult to answer in any precise way, except in so far as scattered references in the texts allow us to risk the following hypothesis. We may first observe that the three blueprints for marriage contracts submitted by Ibn al-'Aṭṭār in his *Kitāb al-Wathā'iq wa'l-sijillāt* – we should bear in mind that 'he did nourish [= inspire] all the people of his age'[261] – without exception provide for marriages

259. Ibn al-'Aṭṭār, *op. cit.*, p. 7.
260. *Ibid.*, pp. 7–9.
261. Ibn Ḥayyān (d. 469/1076), who was unquestionably the greatest historian of the Spanish-Arab Middle Ages (see Huici Miranda, *EI*² art. 'Ibn Ḥayyān'), had this to say of his countryman Ibn al-'Aṭṭār: 'He was a man deeply versed in all the sciences of Islam, knew *fiqh* [jurisprudence] better than most, and was a master of conditional clauses on which his book is recognized as an authority by the people of our time' (Iyāḍ, 1967, IV, p. 650).

that are subject to conditional clauses: 'they shall be founded upon the previous aforementioned conditions'.[262] This was even to be the case where a bondman entered into wedlock with a freeborn woman: the *shari'a* permitted this, provided the freeborn woman was not herself the daughter of this bondman's lord.[263] 'It shall be stipulated unto the bondman to observe all these conditions':[264] although only in so far as he might be allowed to fulfil them within the limits of his bondage and submission to the will of his lord. The generalization of such conditional clauses in all the types of marriage contracts included in Ibn al-'Aṭṭār's *Kitāb al-Wathā'iq wa'l-sijillāt* – for not one contract type to be found there lacks them – permits us to infer that at least or most especially in Islamic Spain in Ibn al-'Aṭṭār's own day, that is, in the fourth/tenth century, marriage contracts were indeed subject to conditional clauses.

Moroever we find indications which attest to the spread of such conditional clauses in other medieval Islamic lands. For example, it was the custom of the people of Kairouan in the second/eighth century to stipulate in marriage contracts that if the husband were to take a second wife, or bed a concubine, then he thereby voided his contract; his first spouse might choose 'to take matters into her own hands' and consequently enjoy in full equality with her husband the right to pronounce divorce herself and hence recover her full liberty. Thus, towards the end of the caliphate of the Ummayad ruler Hishām Ibn 'Abd al-Malik (r. 105–125/724-743), the future Abbasid caliph Abū Ja'far al-Manṣūr, then still a subject, took to wife a girl originally from Kairouan whose name was Umm Mūsā: she was to bear him a son who ultimately became the Abbasid caliph al-Mahdī. When he entered into wedlock with her, however, he found that he had to observe all the conditional clauses of a contract drawn up according to Kairouanese custom. Ibn al-Abbār (595–658/1199–1260) tells us, in his book *al-Ḥullat al-siyarā'* [The Silk and Golden Raiment], how Umm Mūsā's marriage contract specified that:

> he should not take unto him another spouse besides her, nor yet a concubine, and this she wrote down in writ unto him. And he was afflicted thereby during 10 whole years of his rule[265] while she held him to his pledge unto her, until such a night that she bestowed unto him as a gift 100 maidens.[266]

Whatever the truth of this odd anecdote – and there is considerable doubt that al-Manṣūr ever honoured such a pledge – what the story accurately reflects is the custom of the people of Kairouan regarding marriage. The very

262. Ibn al-'Aṭṭār, *op. cit.*, in the contract model entitled: *Inkāḥ al-wajī min qibal al-ab*, p. 11.
263. *Ibid.*, p. 15.
264. *Ibid.*, p. 14.
265. Al-Manṣūr became caliph in 136/754. Umm Mūsā died in 146/764 and al-Manṣūr in 158/775.
266. Ibn al-Abbār, 1963–1964, II, pp. 339–40.

expression, a 'Kairouanese wedding', came to mean a prohibition on taking several wives. While both parties were supposed to consent, such a prohibition in the mentality of medieval Muslim males signified, however, a torment such that only the gift of 100 maidens in a single night might cancel it from the memory! We find another indication of how widespread the usage of 'Kairouanese weddings' was in this same period, taken from another anecdote told by Ibn Nājī (d. 839/1435) in his book, *Ma'ālim al-īmān* [Signs of the Faith].

Abū Kurayb (d. 139/756) was one of the most eminent and learned of the disciples of the Prophet's followers.[267] His liege lord, 'Abd al-Raḥmān Ibn Ḥabīb, one of the conquerors of the province of Ifrīqiya (over which he ruled from 127/745 to 137/755), appointed him as judge there, 'sending him forth from Tunis therefore in the year 132'.[268]

> One day as Judge Abū Kurayb was sitting in his mosque, there appeared before him a manservant of the lady of the emir – and she had laid down as a condition unto her lord the emir that were he to take unto himself a concubine, then *matters would rest in her own hands*. Therefore the manservant submitted his lady's warrant unto Judge Abū Kurayb, who took it from him and impressed his seal thereupon, [then went] and said unto the emir: 'My Lord! Hast trust in me?' Quoth the emir: 'Unto thee be trust!' Quoth Judge Abū Kurayb: 'This a judge's seal!' Quoth the emir: 'Yea!' And so the emir went forth unto the judge and sat before him even with the manservant. And the judge questioned the emir as to the matter under judgement. And the emir acknowledged that he had taken a concubine and the condition thereon. And the judge gave order that the emir might not approach his lady, and those present bore witness that *the matter rested in her own hands*: and that the lady might remain if she listed and pronounce divorce upon herself if she listed. And the emir lifted his hands to heaven and cried out: 'Praise be to God! I have beheld a judge who delivereth judgement according to the right!'[269]

This anecdote is by no means a mere pious fabrication. Quite the contrary: we may be inclined to trust its essential veracity in so far as it corresponds to a piece of brilliant political propaganda well tailored to the mentality of its own age, with no unnecessary frills. The emir was then in dire political straits. He needed urgently to be perceived as a just ruler who strictly enforced holy law, since only by application of such law could he hope that his emirate might

267. See his biography in: Abu al-'Arab, *op. cit.*, pp. 234, 249–50; al-Mālikī, *op. cit.*, I, pp. 168–72; Ibn Nājī, 1968, I, pp. 224–9. The date and circumstances of his death, and the name of his successor, have not been agreed upon; we choose to rely on al-Mālikī and Ibn 'Idhārī, 1983, I, p. 70. Abū Kurayb owed allegiance to 'Abd al-Raḥmān Ibn Ḥabīb, then to his son Ḥabīb. He fell in battle against the Khārijites while defending Kairouan. Ḥabīb succeeded his father as local ruler.

268. Ibn Nājī, *op. cit.*, I, p. 224.

269. *Ibid.*, pp. 224–5.

continue to be recognized as legitimate by the new Abbasid caliphate.[270] Whatever the accuracy of the story itself as true incident or fabrication, the anecdote mirrors truthfully this essential fact: matrimonial legislation or usage current in Ifrīqiya at the time recognized that monogamy might be laid down as a binding condition upon a ruling emir himself.

Monogamy as stipulated in a marriage contract was hardly unknown in medieval times, nor was it restricted to members of the poorer or middle classes as a matter of economic necessity: we see it even accepted by members of the aristocracy who were normally in a position to expend considerable sums on satisfying their sexual appetite. How long did such legally stipulated monogamy in marriage contracts actually last? Almost down to our own times, it seems, since the late Ḥasan Ḥusnī 'Abd al-Wahhāb, drawing on what he had witnessed in Kairouan, believed the usage to have survived well into his own lifetime (1884–1968). He writes:

> I should say that the custom has endured since past ages until now in Kairouan, since grooms pledge to their brides, in their marriage contracts, not to take a second wife. It is also written down in these marriage contracts that a wife has the right to pronounce her own divorce should her husband wed another woman. This is what is known in the Tunisian area as a 'Kairouanese wedding'. This is why so few men in Kairouan take several wives.[271]

Still, the survival, in Kairouan, of the practice of single marriages subject to conditional clauses in a contract must be regarded as something of an anomaly: to be duly noted, not taken as the norm. What we glean from our texts, and still witness today (for our present situation in so many ways perpetuates our past), offers the sharpest possible proof that Muslim women were ultimately unable to impose monogamous marriage as the prevailing rule in daily life. The blunt fact remains that such marriage contracts (with conditional clauses to protect women's distinct rights) did not take root in custom or tradition at large and did not overrule daily usage either in the Middle Ages or today. This was because of the diehard opposition from most men (steeped as they were in their own way of thinking) and outright rejection on the part of the vast majority of the clerics (*fuqahā'*). The imam of Medina himself, Mālik (d. 179/795), joined in such rejection, while the learned judge of third-/ninth-century Kairouan, Saḥnūn, 'was much distressed thereby and waited anxiously for the opportunity to inflict grievous punishment on those who entered into such contracts, and witnessed them, and registered them in writing'.[272] Ibn Ṭālib wrote to Khalaf Ibn Yazīd, the judge of Tripoli, and to other judges in towns under his jurisdiction, concerning the abrogation and

270. See M. Talbi, 1966, pp. 35–7; Arabic tr., pp. 41–2.
271. H. H. 'Abd al-Wahhāb, 1934, p. 15, n. 1.
272. 'Iyāḍ, 1968, p. 225.

annulment of all conditional clauses between spouses. No man, he wrote, should marry a woman not of his own creed and faith, in accordance with the Word of God: 'The parties should either hold together on equitable terms or separate with kindness.'[273] He forbade notaries, witnesses, and the people in general, to attend, to bear witness to, or to register in writing, any wedding which might be subject to such a kind of conditional marriage pact, with further orders that transgressors should be punished and imprisoned.[274] Taken in all, a medieval Muslim woman was completely subject to her husband's will, who might 'take her on equitable terms' – and only he might see fit whether whatever he decided was 'equitable' – or send her away 'with kindness' – and only he might judge whether what he did was done 'with kindness'. This was basically the situation in all Islamic lands and one which has lasted in most of these countries practically down to our day, give or take several daring readjustments.

Marriage was the most important event in a girl's life, for which she prepared from the onset of puberty. The *mahr* (bride-price), which the groom offered as a contribution to covering the expenses of his future wife's trousseau, varied according to social rank. All the models for marriage contracts included in Ibn al-'Aṭṭar's *Kitāb al-Wathā'iq wa'l-sijillāt* still hold good in our daily lives today. The texts of such contracts include the following:

> Thus pledgeth the Lord So-and-so unto his spouse the Lady So-and-so . . . He pledgeth unto her so many dinars both in ready cash and in troth . . . And the ready cash shall amount to so many dinars and so many dirhams. On her behalf it shall be taken from her bridegroom by the Lord So-and-so, her father, or by the Lord So-and-so, her warden . . . in whose hands it shall be made to constitute her dowry . . .[275]

We should note how the *mahr* was divided into two parts. The first part was offered by the bridegroom 'in ready cash' (*naqd*), that is, at once and on the spot, being intended for the bride's trousseau (*jihāz*). In common speech, the very word for cash (*naqd*) thereby became synonymous with *mahr*. The second part was pledged 'on troth (*kālī*)'; the agreement between both parties was for this specified sum to be made available at a specified date to the bride, generally quite a long time after the wedding. The 'on troth' clause (*al-kālī*) has disappeared from modern daily usage and we do not know how far and until what date it applied in the medieval period. But we do know that it served women as an additional means of protection and safeguard against arbitrary divorce or daily mistreatment by their husbands. As long as her spouse dealt

273. Qur'ān, II. 229.
274. 'Iyāḍ, 1968, pp. 224–5. Ibn Ṭālib (217–275/832–888) was twice appointed judge in Kairouan and died in office.
275. Ibn al-'Aṭṭār, *op. cit.*, p. 7; see also pp. 11, 14.

kindly with her and refrained from pronouncing divorce on her unilaterally and on a whim, a wife in turn could choose to suspend demanding the return of her own rightful share of the global *mahr*: that is, *al-kālī*, the portion pledged 'on troth'. How steep this amount pledged 'on troth' might be was just what helped a husband assess how much he stood to lose if he treated his wife with harshness or divorced her out of hand. The 'on troth' clause offered, then, compensation to a wife for whatever hardship might befall her as a result of mistreatment and arbitrary repudiation by her husband. It acted as a deterrent, a protective weapon for a medieval woman as she entered into the hazard of marriage, a means by which somewhat to redress a balance otherwise weighted so heavily in favour of her male partner.

How much a bride's full *mahr* might amount to, rose, of course, in direct proportion to her place in the social scale. Sources of pride were the size of her trousseau, the expenses lavished on the wedding feast and the entertainments which followed. By way of example, we might take an account of the wedding of a daughter of the caliph al-Ma'mūn (r. 198–218/813-833):

> Quoth al-Rayyān Ibn Sayyid, cousin to the caliph al-Mu'taṣim: 'When 'Abdallāh al-Ma'mūn Billāh wished to marry his daughter Umm al-Faḍl unto Abū Ja'far Muḥammad Ibn 'Alī al-Riḍā – God's peace on them both! – there gathered about him those of his House and the great ones of the people. And the marriage deed was drawn up between them. Then did al-Ma'mūn hold a great feast and this was in the year two-hundred-and-two [202/817]. And the people sat each according to their rank, both the greater and the lesser.' Further quoth al-Rayyān: 'And thereupon did I hear speech like unto the speech of sailor folk when they answer unto one another, and behold! the servants entered dragging a ship of silver whose cables were of silk and all filled with the scent of musk. And they sprinkled thereof the beards of the great ones, then pulled they the vessel onwards unto the common folk and scattered scent upon them likewise.'[276]

When al-Ma'mūn in 210/826 took to wife the Lady Būrān (192–271/807–884),[277] the daughter of al-Ḥasan Ibn Sahl (d. 236/850),[278] the holder of several governorships, the festivities dazzled the entire age. They were held at a place called Fām Ṣāliḥ, near al-Wāsiṭ in Lower Iraq, and expenses rose to '380,000 dirhams'.[279] For his part, al-Ḥasan Ibn Sahl expended upon his daughter's trousseau:

> 37,000 dirhams. And the Lady Būrān was unveiled unto al-Ma'mūn, who ordered spread beneath her field a carpet woven of gold. And the Lady Grandmother of the Lady Būrān came forth with a basket of jewels of gold set with

276. Al-Rashīd, *op. cit.*, p. 101.
277. D. Sourdel, *EI²* art. 'Būrān'.
278. D. Sourdel, *EI²* art. 'al-Ḥasan b. Sahl'.
279. Al-Rashīd, *op. cit.*, p. 98.

> great pearls, and scattered of these upon the Ladies present, and amongst them was the Lady Umm Ja'far Zubayda, and the Lady Ḥamdūna daughter unto the caliph Hārūn al-Rashīd, and others besides. And not one of those present touched aught of these pearls. Quoth al-Ma'mūn: 'Shew ye honour unto the daughter of Abū Muḥammad, and deference!' And each one then stretched forth her hand and took unto her a jewel.'[280] [Then] the mother of al-Ḥasan Ibn Sahl, grandmother to the Lady Būrān, on the very day of her granddaughter's wedding to al-Ma'mūn, scattered 1,000 pearls from a tray of gold. And unto al-Ma'mūn that night were lit candles scented with ambergris, the weight of them 40 maunds.[281]

Al-Ḥasan himself had begun preparations for the feast a full year in advance:

> and a train of forty mules conveyed the wood, and were so employed each day on several journeys, and so bore the wood for an entire year. Nor did this suffice unto the feast, and perforce did they cut palmwood that was still damp, and poured thereon grease and olive oil that it might ignite.[282]

Neither did the wedding ceremonies of the middle or even humbler classes lack for feasts and rejoicings, consonant with how far a family's purse might stretch – and depending also on the degree to which a given family in its daily life might withstand puritanical pressure from the religious clerics. Whether in Kairouan in its heyday in the third/ninth century, or indeed in all other cities of Islam, weddings provided an opportunity for mirth, song and making music on a variety of instruments including the trumpet, pipe, rebeck, short-necked and long-necked lute, barbiton and drum. Such feasts were washed down with wine and the guests would become tipsy.[283] Devout folk, however, were content with the traditional feast, and if they added anything at all, were satisfied with a drum. This was in accordance with the words spoken by the Prophet on overhearing the 'song and play' of a wedding feast in Medina: 'He hath fulfilled his creed. This is a wedding, not a whoring: and there is no wedding where one heareth not the drum, nor seeth the smoke.'[284]

Music, and its attendant arts of dance and song, thus took its place in the traditions of medieval daily life, as a key adjunct to festivals and weddings, thereby assuming sufficient importance for an Ibn Khaldūn to consider it one

280. *Ibid.*, pp. 99–100.
281. *Ibid.*, p. 100. A 'maund' (or *mann*) = roughly 1 kg (translator's note).
282. *Ibid.*, pp. 100–1. Al-Ma'mūn married Būrān in 202/817, when she was aged only 10. The marriage was consummated in 210/826 (see al-Ṭabarī, *op. cit.*, VIII, pp. 566, 606–9). Būrān is an Arabization of the Persian name, Pūrān, borne notably by the daughter of the Sassanid shah Khosrō II Parwēz, known in Arabic as Kisrā Abarwīz (see again al-Ṭabarī, *op. cit.*, II, pp. 231–2). In addition to her Persian name, she also bore an Arabic name, Khadīja, as was the custom for Persians and *dhimmīs*.
283. Ibn 'Umar, *op. cit.*, pp. 76–83.
284. *Ibid.*, p. 82.

of the chief accomplishments of civilization and to devote a special chapter to the subject in his *al-Muqaddima*. He describes such instruments as the *shabbāba* (pipe), the *mizmār* (flute), the *būq* (trumpet), the *barbat* (barbiton: a type of harp), the *rabāb* (rebeck: the Arabian viol), the *qānūn* (dulcimer) and the *ṣusūt* (cymbals). Ibn Khaldūn further dwells on how higher civilization resulted in a passion for music as a necessary acompaniment to feast days and especially weddings:

> [People at that time] constantly had games and entertainment. Dancing equipment, consisting of robes and sticks, and poems to which melodies were hummed, were used. That was transformed into a special kind [of entertainment]. Other dancing equipment, called *kurraj*, was also used. [The *kurraj*] is a wooden figure [resembling] a saddled horse and is attached to robes such as women wear. [The dancers] thus give the appearance of having mounted horses. They attack and withdraw and compete in skill [with weapons]. There were other such games intended for banquets, wedding parties, festivals and [other] gatherings for leisure and entertainment. There was much of that sort in Baghdad and the cities of Iraq. It spread from there to other regions.[285]

Among the most recommended works of piety in the medieval age – and to a varying extent this has lasted into our own times – was for the wealthy to assist poorer folk in endowing their daughters with a trousseau. An illustration of this practice may be borrowed from an account of the life and generous deeds of the judge Ibn Ṭālib:

> A man raised unto him complaint that he lacked the wherewithal to endow his daughter. Now unto Ibn Ṭālib was a daughter, who would come unto him on the high holy days. Quoth he to the girl's mother: 'I should like thee to adorn thy daughter for me and to array her with all her gems and with all her raiment.' And she did so and sent her forth unto him. And he welcomed her and rejoiced. Then quoth he to the girl's mother: 'So-and-so hath raised complaint unto me in this manner . . . And I should like thee to yield unto him all that arrayeth my daughter of gems and raiment that he might endow his daughter therewith, and it shall so fall unto me that I shall replace all thereof unto my daughter and more!' And so the twain yielded all these things up unto him.[286]

What with trousseau and feast, a girl's nuptials, whether subject or not to conditional clauses, remained the cornerstone of her life. She married and became the mistress of the household and normally laboured in the home, while her spouse plied his trade outdoors. Days passed and followed days, some bringing joy, others merely flowing past, while she busied herself with those domestic matters considered fit for a woman's lot. Meanwhile her man earned their daily bread as behoved a male, since 'men are the protectors and main-

285. Ibn Khaldūn, *al-Muqaddima*, ch. V, section 31; Rosenthal tr., vol. II, pp. 404–5.
286. 'Iyāḍ, 1968, p. 215.

tainers of women'.[287] Should a husband engrossed in his outside tasks forget to buy for the house what his wife had charged him to, what then to do? A medieval housewife – and this usage has lingered nearly down to our own day – might remind him to 'bind a thread around his little finger, that he should recall her'.[288] While her husband shopped, she kept herself busy grinding and kneading and baking flour, embellishing the house and spreading the carpets. Preparing bread need not, however, have been one of her tasks in the larger cities: bakeries usually existed and bread was sold in the markets, as we know from our sources since at least the third/ninth century.[289]

Otherwise, a medieval wife, even if she were the spouse of a wealthy husband, normally saw to the cooking herself and never left the task to the servants: a custom of family life which has endured to our day. Thus al-Hamadhānī, in his witty verbal sketch of *al-Maḍīra* [The Stew], has his parvenu merchant boast to his guest of his wife's knack with the cooking-pots:

> He described unto me her skill in the making thereof, and her diligence in the cooking thereof, and said:
>
> 'My Lord,
> 'Thou shouldst see her in person
> 'Strap on her apron,
> 'Run through the mansion
> 'From oven to cauldron,
> 'From cauldron to pot,
> 'Puff up the fire good and hot,
> 'Grind in the spices piping hot;
> 'And see the smoke begrime her pretty face,
> 'On her polished cheek leave a long sooty trace –
> 'A sight simply to make one's eyes race!'[290]

Given the general lack of entertainments in medieval times – especially when compared with those available nowadays – it is no wonder that people craved the opportunity to hold banquets and feasts. Even misers shared in this common urge. The skinflints depicted in al-Jāḥiẓ's wicked little pen sketches take good care not to stand apart in the eyes of their contemporaries in regard to the prevailing social codes of the age. They only betray their avarice in, say, details pertaining to the food, skimping for example on the portions of bread. Exchanging invitations to feasts was one of the outstanding traits of medieval daily life, providing the occasion for relatives and friends to trade news and gossip over their food and confirm close ties. Muḥammad Ibn Saḥnūn in

287. Qur'ān, IV. 34; Yusuf Ali ed. and tr., p. 190.
288. 'Iyāḍ, 1968, p. 35.
289. Ibn 'Umar, *op. cit.*, pp. 54–8; al-'Uqbānī, *op. cit.*, p. 116 (Arabic pagination).
290. Al-Hamadhānī, *op. cit.*, p. 106.

third-/ninth-century Kairouan informs us that it was the custom of the people of the city:

> on high holy days and great festivals, for each to prepare food in his home and thither invite his neighbours and kin and others from amongst the people, or that many folk should gather for to take their food in common in the home of one from amongst their number.[291]

It was indeed customary for several hosts to pool resources for a banquet where large expenses were called for. Such a usage in Kairouan goes back at least to the third/ninth century:

> between kinsfolk and friends: on occasion of a wedding, or when a man would celebrate the birth of a manchild, or mark the circumcising of him, or rejoice over his own nuptials, and so would wish to hold a feast, then his neighbours and friends will assist him with all manner of foods and all that might be eaten with bread, and with grain, and with flour, and with foods dressed and cooked; and he shall return the like, of that all that we have mentioned of similar provision, for another's wedding.[292]

Thus with the middle classes. But for rich folk, emirs and caliphs, feasts were only one more occasion on which arrogantly to vie in flaunting splendour and wealth. *Al-Qāḍī* al-Rashīd has left a testimony of some of the extravagant ceremonies and ostentatious displays which attended feasts marking a circumcision, along with the staggering expenses incurred:

> and the people extolled the sums disbursed by al-Ḥasan Ibn Sahl upon the nuptials of his daughter Būrān with 'Abdallāh al-Ma'mūn until this was consigned in the chronicle books and called the *da'wat al-islam* [the Feast of Islam]. Yet what was then told of the feast held by al-Mutawakkil for the circumcision of his son caused the former feast to be forgotten.[293]

For when the caliph al-Mutawakkil celebrated the circumcision of his son Abū 'Abdallāh al-Mu'tazz, he scattered dinars, dirhams and pearls at random among the members of his retinue.

> And the Lady Qabīḥa, mother to al-Mu'tazz, had coins especially struck for the occasion, dirhams bearing the inscription:
>
> 'Blessings from Allāh
> Upon the circumcising of Abū 'Abdallāh
> al-Mu'tazz Billāh!'

She ordered 1 million such coins to be struck, and distributed them among the barbers and their apprentices, the pages, grooms, household stewards and

291. Ibn Saḥnūn, 1982, p. 231.
292. *Ibid.*, p. 231.
293. Al-Rashīd, *op. cit.*, p. 119.

especially the household slaves both white and black.[294] Wealthy folk and emirs often arranged for the circumcising of orphans or the sons of the poor to accompany the circumcision ceremonies of their own sons – a custom of which traces also still remain – in order to acquire blessings and religious merit thereby. When the caliph al-Muqtadir had his 5 sons circumcised all on the same day (Saturday, the 11th eve of Jumādā 'l-Ūlā of the year 302 = 2 December 914), 'he gave orders for the circumcision of a group of orphan boys and shared out amongst them dirhams and raiments and otherwise dealt generously with them, whereby the disbursement for this circumcision rose unto 600,000 dirhams'.[295] The Fatimid caliph of Egypt, al-Mu'izz bi-Dīn Allāh, acted likewise in 351/962, when he ordered his officers throughout his realm to see 'to the circumcising of whom they might find from amongst the sons of the people at large who might not be circumcised'.[296]

The circumcising of boys was thus for all families, rich and poor, an occasion for rejoicing. But then, in daily life, came every family's essential task: to see to these children's education. For the family was the very first school of life, where children learned basic traditions and, most especially, their language. Their mother tongue was not always Arabic, however, even in the specifically Arabic-speaking countries. Hence what was known as linguistic 'contamination', as, for example, in the Maghrib. Even as late as the time of Ibn Khaldūn (d. 808/1406), Berbers 'formed the bulk of its population, and their language is its language, save only in the cities. Therefore are they submerged in an ocean of non-Arabic speech and Berber gibberish.'[297] Berber speech predominated in the Maghrib throughout the medieval age. This was the language that a child learned at home outside the major cities, and also the speech of daily communication and conversation within the family, even after the invasion of the Tunisian districts by the Hilālī bedouin in 443/1052, which greatly contributed to the linguistic Arabization of the country, especially in rural districts. Berber speech still holds sway in the vast highland areas of present-day Algeria and Morocco. Linguistic demarcations touched on the habits and manners of daily life, of course, resulting occasionally in confrontation.

Medieval children, like children of all periods, lands and languages, played various games. Girls had that eternal plaything, the doll (*dumya*), in medieval times made of 'bone the length of a hand with a face fashioned thereupon'.[298] There existed a brisk trade in dolls in the days of the second-/eighth-century the-

294. *Ibid.*, p. 116.
295. *Ibid.*, p. 124.
296. *Ibid.*, p. 125.
297. Ibn Khaldūn, *al-Muqaddima*, ch. VI, section 51; Rosenthal tr., vol. III, p. 366. (Rosenthal's translation modified here.)
298. Ibn 'Umar, *op. cit.*, p. 84; al-'Uqbānī, *op. cit.*, p. 97 (Arabic pagination).

ologian Mālik, when the figurines might be made of 'fired clay and cane'.[299] Such 'figured toys' and 'models of girls with which maidens are wont to play' and 'figures of animals and thereof giraffes and the like' were offered to children on the first day of spring or New Year's Day (Arabic *nayrūz*, from the Persian *naw-rōz*, 'New Day'), 'and children make use of them during the high holy days and festivals' – this despite ferocious opposition from the divines.[300] On certain great occasions, such as the Feast of the Breaking of the Fast and the Feast of Sacrifice, dolls were taken to Baghdad in such quantities that the inspector of markets, Abū Sa'īd al-Iṣṭakhrī (d. 328/940), had to set aside a special space for their sale, which then became known as the *sūq al-lu'ab* (toy market).[301] Among girls' toys was also the hobby-horse, or *kurraj* (a Persian word), much played with at weddings: little girls would drape a wooden horse with splendid cloth, tie a rope around its neck and drag it hither and thither, screaming and singing all the while.[302] But adults, and even caliphs, might also amuse themselves with such things. The caliph al-Amīn (r. 193–198/809-813) one evening invited several of his boon-companions, 'and behold, the mansion was filled with handmaidens and pages, and all did sport and play, and Muḥammad [al-Amīn] in the midst of them riding the hobby-horse did dance thereby'.[303]

Boys played mainly with tops and the like,[304] as we did ourselves when young – such eternal roots of our daily lives make us the human beings we are. Boys in the courtyards of their houses also played with *zadw* ('nuts'), a game which landlords feared because of the damage inflicted on the houses they leased, as happened in the case of the philosopher al-Kindī in the anecdote recounted by al-Jāḥiẓ with his usual merry wit.[305] Al-Kindī, he tells us, had problems with the people who rented one of his houses in Baṣra. This is because the boys dug holes in the courtyard:

> true wells for their *zadw*-nuts, and each one of these holes was called the *muzdāt* [the 'nut-holder'], wherein were stored the nuts with which the boys did sport. And the purpose of the sport was to hide therein the nuts – or pebbles if nuts might not easily be had – that the questioner thereto might ask by these two words as expressed in the speech of children, to wit: '*Khasā* or *zakā*?' That is: 'Even or odd'?[306]

Another similar game was the *buqayra*.[307] Its purpose was also to hide something. The child held something close in one of his two fists, both of which he

299. Al-'Uqbānī, *op. cit.*, p. 97 (Arabic pagination).
300. *Ibid.*, p. 98 (Arabic pagination).
301. See Ibn al-Ukhuwwa, 1937, p. 56. See also al-Mawardi, 1973, p. 251.
302. See M. Ahsan, *op. cit.*, p. 274.
303. Al-Ṭabarī, 1966, VIII, p. 524.
304. Ibn 'Umar, *op. cit.*, p. 84, n. 41.
305. Al-Jāḥiẓ, 1958, p. 83.
306. *Ibid.*, p. 350, note.
307. Ibn Manẓūr, 1955, IV, p. 75.

plunged into a pile of earth or sand, meanwhile calling out: 'Which hand is the thing hidden in?' '*Uẓaym waḍḍāḥ* ('shiny knucklebone') was still another game, played at night between two teams. The white bone would be thrown in the dark in some direction and both teams would race to find it. The first to find it secured victory for his team-mates and called out: 'Shiny knucklebone! Shined tonight? Will never shine another night!' The members of the winning team then clambered over the shoulders of the members of the losing team and rode piggy-back from where the knucklebone was found to where it was first thrown from.[308] *Al-khaṭra* (the 'brandishing') was also a game played by two teams.[309] This game centred on a whip made of plaited rags; the two teams contended for the scourge and whichever team member allowed the thing to be snatched away from him by an opponent and was beaten with it thereby caused his own team to lose; again, the losers had to bear off the winners piggy-back. Still another game was *al-dāra* (the 'circling about'),[310] again played by a group of children. Two children sat back to back while the other children ran in a circle around them and tried to strike the two in the middle. Meanwhile the two sitters attempted to catch hold of one of their strikers. Whoever got caught had to take the place of one of the sitters.

The *lu'bat al-ḍabb* ('game of the lizard')[311] required the picture of a lizard tacked up on a wall to which a child turned his back. His playmates asked him to touch with his hand whichever part of the lizard they named. If he succeeded in this, then the asker took his place, turning his back to the picture, and the winning child would ask him in turn to touch the same spot. When the child with his back to the figure failed, however, then he had to carry all his playmates piggy-back one after another. *Dūbārak*[312] was played by children on the eve of 'Caliph al-Mu'taḍid's New Year's Day',[313] that is, on the eve of 11 June. *Dūbārak* is a Persian word, meaning 'bride'. The children put together a large doll, the size of a young girl, dressed it up in wedding clothes and set it up on the rooftop. The people then gathered round, lit bonfires, beat their drums and blew their fifes, as if the festivity involved true nuptials, those of the *dūbārak* doll.

308. *Ibid.*, XII, p. 411.
309. A. Taymūr, 1948, pp. 22–4.
310. *Ibid.*, p. 30.
311. *Ibid.*, pp. 37–8.
312. *Ibid.*, p. 30.
313. Under the Abbasid empire, the land tax (*kharāj*) was normally levied on the first day of spring, or 21 March, corresponding to the old Persian New Year: *naw-rūz*, the 'New Day', often Arabized as *nayrūz*. But in March of AD 895, Islam's month of *Muḥarram* of AH 282, the caliph al-Mu'taḍid ordered this tax to be postponed until 11 June, or the eleventh day of *Ḥuzayrān*. As a consequence, 11 June came to be known as 'Caliph al-Mu'taḍid's New Year's Day', *Nayrūz al-Mu'taḍid*. See al-Ṭabarī, 1966, X, p. 39.

Children played under the watchful eye of the lady of the house. Her role was not restricted to child care, however. Often enough, she contributed her share to covering the family needs by weaving cloth and making clothes and might even help earn the family's bread as a paid seamstress – several women, indeed, might cooperate in this. In Tlemcen in the days of al-'Uqbānī, women would meet 'in a gathering which they called the *tawīza*, there to spin in the house of one of their number who called upon them, that they might spin flax and wool together, helping one another in friendship'.[314] Holding such a *tawīza* is still a familiar custom in many localities of the Maghrib, where it continues to be known under the same name of undoubted Berber origin. In the Maghrib, 'women repeatedly go to work outside the home', reports al-'Uqbānī, 'gathering in large crowds and dense masses before the shops of the purveyors of water and the bakers of bread'.[315] In some market lanes, they thronged 'the shops of the artisans there to sit while these did ply their craft on their behalf' on some item they had ordered.[316] Or they went straight to 'the cloth market and its surroundings',[317] there to help make ends meet by selling what they had sewn at home and buying in turn whatever raw materials they needed – if not indeed, suggests al-'Uqbānī to his chagrin as we have already noted above, to 'mingle with menfolk – and these women fall in with disreputable ones who shall engage them in conversation and jest with impropriety'.[318]

Daily life necessarily entailed its succession of good days and bad, times for play and those for the toil necessary to feed and raise one's children. But for all its hubbub and fuss, and however short or long it might be, daily life just as necessarily ran its course towards death: ringing down the curtain on work and play alike and cutting off each individual's numbered days of breath. Every family was tried with the loss of its members and funeral services helped assuage the pain. Women played their role by giving expression to their sorrow through rites[319] derived from pre-Islamic practice and still in use today, however much Islam objected and tried to prevent them. Al-Hamadhānī thus describes, in Mosul, a house:

> Whose master hath died.
> Hired women weepers did mourn by his side,
> The people crowded, pain seared their hearts and they cried:
> Anguish ripped all their bosoms to shreds
> And the women let down all the hair on their heads
> And beat on their bodices

314. Al-'Uqbānī, *op. cit.*, p. 77 (Arabic pagination).
315. *Ibid.*, p. 80.
316. *Ibid.*
317. *Ibid.*
318. *Ibid.*, p. 78.
319. On funeral rites, especially in the West, see L.-V. Thomas, 1985.

> And tore on their necklaces
> And scratched on their faces.[320]

We find the same customs both in the Maghrib, as recounted – and deplored – by such divines as Muḥammad Ibn Saḥnūn[321] and Yaḥyā Ibn 'Umar,[322] and in Egypt, where mourners rent their clothes, blackened their faces and shaved their heads.[323] Azjūr strove to forbid such practices as prefect of the watch in Egypt in the year 253/867. In the Maghrib, al-'Uqbānī has described how women gathered:

> in such a place that they invited one another thither and called it *al-ẓaḥf* [the vanguard's march]. There they strike the tambourine and pluck, the lute, and go out into the lanes crying at the top of their voices, and with their faces open to view.[324]

A custom which has endured consisted in preparing food for the deceased's kin and for all who came to mourn with them.[325]

The bodies of the poor were washed at no expense and wrapped in the simplest shrouds.[326] Ostentation and arrogance even in death, however, attended the funerals of the wealthy, nobles and rulers – to an extent sometimes little short of madness.

> It is told of the emir Sayf al-Dawla Ibn Ḥamdūn, when he died in the year 356/967, that his body was washed 7 times: first with water, then with the oil of water-lilies, then with sandalwood scent, then with *ḍartra* scent, then with ambergris, then with camphor, then with attar of roses. Then he was washed again 3 times with distilled water. After all these washings, his body was wiped with a *dabīqī* cloth which cost no less than 50 dinars that went as a gratuity – in addition to his fee – to the corpse washer, who in turn was no less than a religious judge from Kūfa. The deceased was then anointed with saffron and camphor, his cheeks and neck were further touched up with 100 *mithqāl*-weights of musk and ambergris, and his eyes and ears with 30 *mithqāl*-weights of camphor. The shroud in which he was wrapped cost 1,000 dinars and the coffin in which he was laid was steeped in camphor.[327]

Funeral processions, which were accompanied by prayers, could lay bare the contentions between Islam's different religious schools.

320. Al-Hamadhānī, *op. cit.*, pp. 98–9.
321. Ibn Saḥnūn, 1982, pp. 232–3.
322. Ibn 'Umar, *op. cit.*, pp. 89–91.
323. M. al-Kindī, 1959, p. 236.
324. Al-'Uqbānī, *op. cit.*, p. 71 (Arabic pagination).
325. Ibn Saḥnūn, 1982, p. 232.
326. 'Ibn Farrūkh (d. 183/799) sometimes himself washed the deceased of humble social condition, entrusting the task to no one else, and bore them to their graves' ('Iyāḍ, 1968, p. 46).
327. A. Mez, 1967, II, p. 234, drawing on Ibn Shaddād.

> There died a man who was a companion unto al-Bahlūl, and al-Bahlūl attended services, and Ibn Ghānim and Ibn Farrūkh likewise, and all three prayed over him. But then occurred the funeral of Ibn Ṣakhr the Mu'tazilite ('rationalist'), and they called out unto Ibn Ghānim: 'Hie thee to the funeral!' Quoth he: 'Every living creature is but a future corpse! Rather take ye my donkey!' And it was called out likewise unto Ibn Farrūkh, and he answered the same. And it was called out likewise unto al-Bahlūl, and he answered the same. And they turned away, and offered not prayers over him.'[328]

We have many such accounts.

> Clerics were often buried in their own homes, and only several years after their death conveyed to a permanent gravesite. In the second half of the fourth/tenth century, members of the Shī'ite school adopted the custom – still prevalent – of transporting their dead to Najaf and Karbalā'.[329]

After death came the turn for visits to the grave, and here women took a foremost part – as they still do. On the death of a male relative:

> his mother and sister and wife go forth, and go forth with them the neighbour women, unto the grave . . . And a woman whose spouse hath died, or her child, or any one of her close kin, repaireth unto the grave every Friday, and also on one other day, and anon she weepeth with great clamour, and anon the other women gather about her and weep with her, the while raising most piercing cries.[330]

Then 'they will plant tents in the cemetery, ostentatiously claiming that they do so for in order to veil those amongst them who long abide therein',[331] but thereby – in the view of a divine like al-'Uqbānī – transforming the graveyard into 'a sitting ground for recreation'. By this the cleric means 'that there befalleth therein the boldness of those who fear not God on High for their sinful doings, that they might hide therein too much knowledge thereof'.[332]

There was no equality between the funeral processions of common folk and the nobility, and the funerals of noble folk never lacked for eulogies, orations and recitations of the deceased's virtues. When the deceased was a person of note, and especially a religious dignitary, rulers took care to appear at the head of the procession. When the Mālikī theologian, Muḥammad Ibn Saḥnūn, died in 256/870 in Kairouan:

> the emir prayed over him [at the time this was the Aghlabid ruler, Ibrāhīm Ibn Aḥmad Ibn al-Aghlab], and raised a dome over his tomb. And tents were raised around his grave and the people abode thereabout for many months until there sprang up markets with selling and buying around his grave.[333]

328. 'Iyāḍ, 1968, p. 49.
329. A. Mez, *op. cit.*, p. 235.
330. Ibn 'Umar, *op. cit.*, pp. 91–2.
331. Al-'Uqbānī, *op. cit.*, p. 77 (Arabic pagination).
332. *Ibid.*
333. 'Iyāḍ, 1968, pp. 186–7.

Saḥnūn was of course commemorated with flows of tears, dirges and memorial poems – as usage has it everywhere, East or West, today or in the past:

> Shed ye tears for the noble one, the most illustrious one,
> Death hath stretched unto him her twin hands –
> As she is wont.[334]

The great ones thus departed this life draped in wreaths of rhetoric and eloquence and arrayed with tokens of respect from rulers and common folk alike: for from birth to death, awareness of rank never relaxed its grip on daily life!

We have attempted here to present as clearly as possible the principal features of this general way of life. While we could not include everything within the limits of a single chapter and describe all the manners, usages and activities of medieval Islamic mankind, still, as the Arabic saying goes, if one cannot encompass the whole, at least one should not forego what little part thereof one might have grasped.

334. *Ibid.*, p. 187. This is the first verse of the funeral oration spoken by Muḥammad Ibn Abī Dāwūd, one of the companions of Muḥammmad Ibn Saḥnūn.

Conclusion

THE MESSAGE OF ISLAM

Abdelwahab Bouhdiba

The various essays in this book will have given the reader some idea of the enormous potentialities of Islam as a faith, as a body of thought and as a set of institutions forming part of a historical context. They will also have shown the extraordinary richness of Islamic culture, which may be described as a 'superculture'. It has, after all, left an indelible mark on widely differing societies, and set its seal permanently and durably on periods of history so lengthy that this too may be regarded as another aspect of the 'Islamic miracle'. Other features of this miracle are that the message has been kept alive and carried to the farmers of the East Indies and the burghers of Cordoba alike, that it has won the acceptance of African tribes and Sassanid villages, and that it has given expression to the same set of principles for fourteen centuries without interruption.

This permanence and this universality are two qualities which the modern world direly needs. For today there is a widespread tendency to overvalue the relative and to prefer the provisional, and to set human civilization enduringly on a precarious and uncertain course. The density of existence, the weight of destiny and the magnitude of our historical responsibilities are less and less vibrantly present in the modern mind, even among Muslims themselves.

Never has humankind needed the message of Islam as sorely as it does now; never has the world been so unreceptive to wisdom. The widespread use of a false dialectic has placed all systems of thought on the same footing, whatever their foundations and references. Never have ideas, values, ideals and standards been cast so far adrift from reality. The word 'ideology', which denotes them, has itself become almost meaningless. It is as if all 'ideas' were now equally temporary, equally suspect, equally questionable. Hence the debate among contemporary thinkers about 'the authentic and the inauthentic'. The greatest aberration of all is that authenticity is glibly equated with tradition and inauthenticity with modernity – or perhaps it is the other way round.

The organizational strength of Islam does not derive from the rigidity of an imposed order, but from the enduring presence of a model that can always be recreated in the light of divine inspiration and the needs of the moment. Our existential experience has for ever to come to terms with material that needs to be moulded, with structures that need to be mastered and controlled. So while the penal institutions of medieval Islam are authentic, they are neither more nor less so than the most modern court or tribunal in any of our countries – always assuming that these institutions strive to respect the imprescriptible ideals of justice, freedom and dignity. The *sharʿ* of classical times is just as authentic as the penal system of modern Muslim countries. The magisterial work of thinkers like Muslim, al-Rāzī, Mālik or Ibn Taymiyya is just as authentic as the ideas of Sheikh ʿAbduh or Sheikh Shaltūt.

Society is and always has been an uncompleted enterprise, the embodiment of a desire for movement. For better or for worse, the fate of any group that seeks to be involved in the changing course of events is bound to be influenced by the relevance of the ideals that motivate it and the circumstances of the time. No one would deny that today's demands are original and new. But the demands of medieval times were just as novel in relation to their epoch. The course of history moves inexorably onwards. We can shape it and take advantage of it or allow ourselves to be passively swept along by it, in other words by a momentum created by others. Competition with other peoples, whether peaceful or warlike, is not new. It, too, is as old as the hills.

An Islam ossified in its medieval form, rigidly governed by ancient and long-outdated manuals, must be confronted with a living Islam capable at any time and under any circumstances of developing its own potential and inventing solutions which renew themselves like life itself. Islam makes its own demands; it sets limits and lays down standards. It knows that, as Muslim believers, we are in honour bound to act responsibly, to give shape to our lives and to fashion all the elements of our existence, both private and collective. The social effectiveness of the Islamic faith does not reside in the routine repetition of experience dating from this or that generation. It derives from a broad and rich religious experience embodied in the fabric of the social action to which it gives meaning, which it enlightens, impregnates with its own ideas and launches – at its own risk – into the course of history.

Contrary to a widespread and simplistic notion, Islam is not a rather hazy image of a virtually inaccessible ideal. Nor is it the wild outpourings of psychological or social misfits. It is neither a projection of unsatisfied fantasies, nor an escape into a cheapjack imaginary world, nor a quest for illusory achievements. It is not a process that compensates for our collective failures. Nor is it 'the sigh of oppressed creatures'.

In Islam, faith and social practices and ethics go hand in hand. For faith permeates the thoughts of Muslims and underpins all their efforts. The ethics

of Islam lay down normative patterns which give impetus to Muslims' personal lives, organize their collective existence and order their daily actions. However obscure and humble the fabric of their everyday life may be, however important and praiseworthy their achievements, they are all ultimately transfigured by faith.

As can clearly be seen from the present volume, Islamic institutions have, because of their unity of inspiration, and despite their diversity, been seen as frameworks of reference that are constantly being 're-produced' without ever, strictly speaking, being the same. They define the co-ordinates that enable believers always to find their bearings and to avoid being pushed into the shadows of marginality. The distinctive feature of Islamic institutions is that they are 'framework-institutions'.

The geographic context has also become more homogeneous, as have the social and cultural contexts. They have given such impetus to the circulation of goods, ideas and persons that Islam is now identified not with an unchanging world, but with mobility of persons and things, institutions and ideas. We have already seen, and will see again in Volumes 3 and 4, how that mobility changed the course of history for the peoples that embraced Islam, and how it was the very foundation of the constitution of the various Islamic civilizations. The latter would remain enigmatic and strange to anyone unaware of the fact that the Qur'ān has above all encouraged a cult of effort, the art of vigilance and a 'passion' for innovation.

Islamic guidelines for the functioning of society have an importance that is not confined to the past. They are still making an impact today, albeit with varying degrees of success. It would be wrong to assume that Islam is a social relic or an underdeveloped form of our collective consciousness. Islam has taken our lives seriously, and has become a permanent feature of our social life. It is no surprise that the often-predicted 'withering away' of Islam has not occurred. To be sure, there has been a process of weakening and a relative loss of efficiency, but its enduring vitality holds out the promise for Muslim societies of something much greater than the survival charitably granted them by the great temporal powers of today.

The tragedy of the Muslim peoples today is that they are still living under the burden of a sense of inadequacy because they lack a satisfactory analysis of the demands of their time. In order to be effective, the Muslims' current struggle to assert themselves must be embodied in new systems of social behaviour, inspired by faith but institutionally defined and approved. Islam cannot be reduced to a mere system of values. It is also a way of organizing existence. The Islamic blueprint for the organization of society must be tirelessly reworked and translated into acts in keeping with the huge potential which modern achievements have put within our grasp. Islam contains a social message which needs to be translated into a project for collective action for our time and, better still, for our present generations.

This message, whose major aspects have been outlined in this book, is a message of brotherhood, justice, endeavour and liberation. Islam's golden rule is that our human actions succeed only if they are an extension of divine creation. History is a permanent *kash*, whose eternal archetype is in the creative act of God. It is not only legitimate but a duty to offer up to God the full range of our personal and collective acts. That is the Muslim's ideal road towards self-fulfilment. To be a Muslim is to live in accordance with divine principles. Islamic happiness is the art of harmonizing one's outlook with God's. Happiness comes from God's blessing. In the Islamic community, collective activity is organized in such a way that work, production, trade with others and intellectual and economic exchanges call for a profound spiritualization of all our acts. We must spiritualize work, education, politics, sexual relations, law, international relations and daily life. The sacred extends over the whole of our existence. Through it, our essence and our existence achieve harmony, because each of them is thus orientated towards self-fulfilment. Active life is nothing unless it is closely associated with spiritual life. Humanism, universalism and sociality here take on their true meaning, which is one and the same: a total integration into God's vision and an active abandonment to God: 'Whoever submits/His whole self to God,/And is a doer of good,/Has grasped indeed/The most trustworthy hand-hold:/And with God rests the End/And Decision of (all) affairs' (XXXI. 22).

In the practical organization of social life in Islam, the human being is always the end purpose. We must express God and fulfil ourselves through all our acts, remembering that the world is not an end in itself, and nor is production. But through work and action I can come closer to God, as long as this effort of straining towards God is not something immutable, but the accomplishment of a long inner progress.

We are doubly mistaken if we think we can dispense with this inner progress or if we try to act in the light of the path taken by our predecessors. We forget that in Islam more than in any other religion, because there is no church or clergy, all asceticism is personal and direct. To offer my action to God I must first make it sacred. There is no such thing as a world of work on one side, and a world of prayer on the other. My work is a prayer, and my prayer is an action. There is integration, complementarity and even amalgamation of individual action, collective endeavour and spirituality. The aim is always the communion of the individual and the *umma*, through creative work and transfiguring prayer. To forget this is to turn one's back on one of the essential teachings of Islam.

The converse mistake, which arises from a failure to look clearly at the demands of modern life, is almost as serious and as frequent. The integration of the sacred into social life is so 'irrelevant' to present-day concerns that we need to make an extra effort – especially in Islamic countries – in order to perceive its true pitfalls. It is out of the question purely and simply to pro-

claim the restoration of medieval institutions. They have had their day, and anachronism is a sociological disaster. Present-day problems cannot be solved with recipes exhumed from previous centuries, however effective and widely used they might have been in their time. We need to recreate them completely, reinstitute them and even invent new ones capable of responding to the demands of the modern world. Copying is now out of the question; we must bring into being, on the basis of intangible principles, a sociology of the sacred and a teaching of action based on spontaneity.

The aim of Volume 6 will be to scan the immediate horizon and to give an account of Islam as it grapples with the difficulties of the present day. The purpose here is not to anticipate but to prepare the ground. For the social message of Islam which we have attempted to define is not a message in a vacuum. It is addressed to present-day Muslims, who are experiencing the most formidable series of crises they have ever known. Almost the whole of Islam is part of what is known as the Third World. This means that it only participates in a chronological sense in the great debates that are buffeting the world and suffers greatly from being cut off from others, from the world and even from itself. If the message of Islam is not to be relegated to the status of a bygone and therefore outdated event, it must recover its essential relevance to the modern world and, through its commitment to that world, win a hearing for a voice which has so much of value to tell the world community today.

Our world requires all unifying ideals to be fully accepted as positive factors that encourage friendship between peoples. It would be unthinkable to exclude the Islamic faith from their number. It must be said that if Islamic societies are ailing, the faith of Muslims can and must help to find an effective treatment for them. Muslims suffer from ignorance, poverty, hunger, violence, oppression and infantilization. They are cut off from the true riches of this world; they need more freedom, more justice, more democracy. They need to respect others and to inspire their respect. They need to control nature without allowing themselves to be illusively dominated by the mechanization of industrial civilization. The magnificent and exhilarating triumphs of science and technology must be put in the service of humanity and its values, and not the reverse.

In view of their economic and social backwardness, Muslims need to conclude a new pact with God and nature. In view of their thirst for justice, inspired by the lamentable state of their relationship with their brethren of all other races, denominations and cultures, they need to reaffirm their deeply felt internationalism and their universal vocation. In view of their alienation, they need to 'show' and to 'demonstrate' their spiritual autonomy. This new pact between humanity, nature and God is a way of giving logical expression to their faith in the modern world, bringing them into harmony with their present situation.

Today's spiritual vacuum is only thinly disguised by the fanaticism of some, the resignation of others, and a readiness to take the path of escalation. It is only by boldly updating the potentialities of the Qur'ānic faith that we can claim to represent God on earth – on the earth of today. 'To each is a goal /To which God turns him; /Then strive together (as in a race) /Towards all that is good. /Wheresoever ye are, /God will bring you /Together. For God /Hath power over all things' (II. 148). That verse is addressed to all of us. It urges us at least to listen to the message of Islam.

General bibliography

Abbreviations used in the footnotes and the bibliography

The abbreviations used for Arab names are those generally accepted by orientalists; a list of these abbreviations is to be found in *GAS*, I, p. xv. The reader may note in particular that: a. = Abū or Abī; A. = Aḥmad; 'A. = 'Alī; 'Al. = 'Abd Allāh; b. = Ibn. Other abbreviations have been added: Isḥ = Isḥāq; Yaḥ = Yaḥyā.

- *AJIL* = *American Journal of International Law.*
- *BEO* = *Bulletin d'études orientales*, Damascus.
- *EI*[1], I–IV and *Supplement* = *Encyclopaedia of Islam*, 1st edn., Leiden/Paris, 1913–1937; *Supplement*, 1942.
- *EF*, I–IV = *Encyclopaedia of Islam*, new edn., Leiden/Paris, 1960 *et seq.*
- *GAL*, I–II and *GAL, S*, I–III = C. Brockelmann, *Geschichte der arabischen Literatur*, I–II, 2nd edn., 1943–1949; *Supplement*, I–III, 1937–1942, Leiden.
- *GAS*, I–IX = F. Sezgin, *Geschichte des arabischen Schrifttums*, Leiden, 1967–1984.
- IFAO = Institut Français d'Archéologie Orientale, Cairo.
- *JA* = *Journal asiatique.*
- *MIDEO* = *Mélanges de l'Institut Dominicain d'Études Orientales*, Cairo.
- *PIFD* = *Publications de l'Institut Français de Damas*, Damascus and Beirut.
- *REI* = *Revue des études islamiques*, Paris.
- *ZDMG* = *Zeitschrift der Deutschen Morgenländischen Gesellschaft.*

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Islamic culture, which is still vigorous in spite of its great antiquity, set out to develop side by side a vision of the individual and of the universe, a philosophy and an art of living that can be seen in the impressive remains of its heritage that is an essential part of the whole of humankind's. Halted for a time by adverse historical conditions, this culture none the less found the strength within itself to re-emerge.

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